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BRITISH LAND POLICY AT THE CAPE, 1795-1844

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*To WILLIAM and FLORENCE GAYNOR*

BRITISH LAND POLICY AT THE CAPE,  
1795-1844: A STUDY OF ADMINISTRATIVE PRO-  
CEDURES IN THE EMPIRE *by* LESLIE CLEMENT  
DULY

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## PREFACE

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It is generally agreed that the manner in which land is disposed of in a new society influences its economic and social development, yet often overlooked are the results that the land alienation system may have on the force of government in that society. Because Great Britain showed only a marginal interest in the administration of land laws in her colonies of settlement during the first three decades of the nineteenth century, the historian may be inclined to view British land policy within the context of the Wakefieldian era and the emigration schemes of the 1830's and 1840's. Prior to this period, however, colonial alienation systems had already reflected and defined the degree of authority that British governments possessed in the respective colonies of European settlers. Thus, a study of land policy can be used as a means to obtain greater insight into the nature and operation of an empire which was built in part by the expansion of frontier communities in North America, Australia, New Zealand, and South Africa.

This work is presented as a description of one aspect of the formulation and exercise of land policy in one colonial possession. It is, therefore, a limited and somewhat isolated study, yet it is hoped that this preliminary survey will help in the preparation of more important assessments of the application of policies in the British Empire of the nineteenth century. It is hoped, too, that this study will help to open the way to new investigations of the role of the colonial administration in South Africa.

Since the main purpose of this monograph has been to trace out the actual land policies framed and enforced in the Cape colony from 1795 to 1844, it has been impossible to relate land policy to other imperial programs or to other South African developments. Originally I had intended to explore the competition for land between the Boer and the African and the resulting social and economic relationships arising from this continuous conflict during the first years of British rule. I soon discovered that a study of particular problems involved in British land policy could not be done until the general features of that policy had been evaluated.

Regretfully, this has meant the exclusion of such related topics as the concepts of land tenure by the settler, missionary, and the African within the Cape colony and the results of the informal systems of landholding on social and political institutions during the period under review. However, the relationship between the expression of policy and the enforcement of it seemed to be of such overriding importance that it has occupied my major attention.

I owe an unpayable debt of gratitude to those who have so freely contributed their time and energies to the preparation of this work. First I wish to thank Professor W. B. Hamilton of Duke University for his consistent encouragement and interest. Few have had such a patient mentor. I also would like to acknowledge the kind assistance of Professor H. M. Robertson of the University of Cape Town, who provided a number of helpful suggestions during my initial investigation of this subject.

My research was made a pleasurable experience by the kind interest and co-operation given by the staffs of the Public Record Office, London; the Rhodes House Library, Oxford; the South African National Archives, Cape Town; the South African Public Library, Cape Town; and the Jaggar Library of the University of Cape Town, Rondebosch. I must not overlook my debt to Miss Irene Fletcher of the London Missionary Society's Archives, Livingstone House, London; Mr. Christopher Quinton of the Library of Parliament House, Cape Town; and Miss Nancy Devine of the Williston Library of Mount Holyoke College. Professors M. E. Lemaire and Joan Bentinck-Smith of Mount Holyoke lessened the burden of dealing with problems in the final phase of preparing the manuscript for publication. To these individuals I am much indebted.

I wish to express my appreciation to the Sub-Sahara African Area Committee of the Ford Commonwealth Studies-International Relations Fund of Duke University and the Duke University Graduate School for their generous financial support of this project. I wish, too, to express my thanks to the Faculty Grants Committee of Mount Holyoke College for its assistance in the preparation of this manuscript. The Committee on Publications of the Graduate School of Duke University awarded the work a publication prize, and I am grateful to its members for their support.



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Finally, allow me to record my thanks to my wife, Diane Hewes Duly, whose assistance and encouragement can be found in each chapter.

L.C.D.

*South Hadley, Massachusetts*  
*June 1967*



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## DEFINITIONS

### A. LAND MEASUREMENT UNITS

**Acre:** for the convenience of London and English-speaking officials at the Cape, the English acre was used as a unit of land measure in official correspondence and in some offices of government. However, with the exception of some town lots and the lands granted to the Albany Settlers of 1820, the acre was not used as the standard in the actual measuring of ground. The acre was equated to one-half a morgen, but the lack of a standard unit of measure in the colony made both acres and morgen inexact divisions of land.

**Erf:** a plot of ground, usually a town or suburban lot of varying size, held under freehold or perpetual quitrent tenure.

**Foot:** the square foot used in surveying varied in size due to the employment of both the Royal standard English foot (fixed in 1821 by an act of parliament as equal to 0.3047945 meter) and the Rhyneland foot (fixed in 1808 by the Batavian government as equal to 0.3139465 meter). Also, the Cape, through custom, developed its own foot, based on that of the Rhyneland. In 1844 it was estimated that 1,000 English feet were equal to 1,033 Cape feet. Since surveyors seldom gave the length of the foot used in surveys and projected in diagrams and since no official Cape measurement was adopted until 1858, all diagrams, surveys, and reports on land alienation were subject to inaccuracies and gave rise to extensive litigation.

**Morgen:** the land measure still used in South Africa. It is equal to 2.11654 Royal standard English acres, but was considered by government as constituting two English acres. Diagrams and titles carried the morgen unit, but after 1843, the acre was used to express the price of waste land sold at public auction.

**Place:** a grazing farm, roughly measured, but thought to contain 3,000 morgen. Since the term also connoted the amount of land needed by a grazier for a farm, "place" was used in much the same way as the terms "homestead" in the United States and "squattling run" in Australia.

**Rood:** according to the Rhyneland system, 144 square feet were equal to one rood and 600 square roods were equal to one morgen. Since the size of a rood was dependent upon the length of the foot, the Cape rood varied in size. (See "Foot" above.)

## B. LAND TENURES

**Fee simple:** although virtually synonymous with freehold tenure, fee simple may be given on condition that a nominal rent or fee (such as the peppercorn requested in Australian grants) be paid to the dispensing agent. Although London recommended fee simple as a suitable tenure for the Cape in 1831, South Africa did not use the system.

**Freehold (Dutch):** also called eigendom or property tenure, the Dutch freehold tenure at the Cape was seldom given without conditions. Although in theory the state surrendered its rights to the land, the government frequently required holders to give a proportion of the harvest to the government or to pay recognition fees. The freehold system employed by the Dutch at the Cape was based on custom and the convenience of the governing agency.

**Freehold (English):** in English freehold, as applied to the Cape, the state transferred to the holder all rights, with the exception of eminent domain. Freeholders were not required to perform service or to pay a recognition fee. From 1795, almost all freehold grants in the colony were made under the English law.

**Gratuitous grant:** land given away by the possessing agency in either conditional or unconditional tenures. In South Africa lots in new villages often were given gratuitously to those willing to build on the land.

**Loan freehold place:** a loan place in which sixty morgen of the land was converted into freehold tenure. Although the system was introduced by the Dutch in order to provide greater security for the most valuable part of the loan place, the holder of a loan freehold place continued to use the remainder of his place as free pasturage and, therefore, the tenure was virtually identical to that of loan place.

**Loan place:** a farm or grazing station of approximately 3,000 morgen, held under a one-year lease, which was automatically renewed. Used by the Dutch as their chief tenure at the Cape, the loan-place tenure became so encrusted with custom that it became a secure and permanent tenure for the lessee.

**Perpetual quitrent:** introduced by 1813, perpetual quitrent was to be considered as secure a tenure as freehold without obligation, but holders were to pay an annual rent. The quitrent, while "modest," especially after 1828, was more than a nominal fee since the government considered it to be its chief property tax or rent. After 1844 the state prosecuted defaulters and reclaimed some grants.

From time to time after 1839 holders of grants were allowed to convert their grants into English freehold.

Quitrent: as used by the Dutch, this tenure was a fifteen-year lease capable of being renewed.

Request place: the Boers' self-devised system of landholding which appeared after government ceased to make new grants in loan-place tenure. A holder either received permission from a local officer of government to occupy the land until government could formally deed it to the holder or the holder merely squatted on the land after applying for it. The extensive employment of the system gave the holders of request places an unusual degree of security.

### C. MONETARY UNITS

English currency: the keeping of Cape accounts in English pounds, shillings, and pence did not begin until 1825. Also in that year the value of the rixdollar was fixed at one shilling and six pence. However, until 1830, the paper currency was based on units of the rixdollar.

Rixdollar: paper currency based on the Spanish silver dollar, introduced by the Dutch and continued by the British. The rixdollar was made up of eight skillings; each skilling was divided into six stivers. The value of the paper rixdollar fluctuated from one shilling and six pence to four shillings until 1825.

### D. OFFICES AND UNITS OF GOVERNMENT

District: the basic geographical unit of internal government at the Cape. In 1795 the colony was divided into four districts; by 1826, through subdivision and through the addition of new territory to the colony, the districts totaled eleven, but the majority of them were so large (some over 30,000 square miles) that the colony did not possess a system of local administration comparable to the American or English county systems. In 1828 the districts were renamed "divisions."

Field cornet: the lowest government official under both the Dutch and the British. His chief duty until 1804 was commanding the local militia. After 1804 he was given minor judicial powers to settle quarrels and to keep the peace.

Heemraden: a council of prominent burghers of a district. Matters of public concern, such as the inspection of land grants, were re-

ferred to this body by the landdrost, who was its president. In addition, the council acted as an inferior court of law. The governor appointed the six members, who served without pay. The heemraden was abolished in 1828.

**Landdrost:** the district officer, appointed by and responsible to the governor. He served as a land registrar, collector of taxes, judge, investigator, and militia leader. In 1828 the office was abolished, and the duties were divided between a civil commissioner and a magistrate, but so often were the two positions held by the same person that the reform was made meaningless.

**Province:** in 1826 the colony was divided into two provinces, but no permanent additional units of government were provided, so that the division was of little consequence. In 1836 a lieutenant governor of the eastern province was appointed, but after 1838 the office with its small staff at Grahamstown was reduced in importance. In 1845 the eastern province was composed of the districts of Albany, Colesberg, Cradock, Graaff Reinet, Somerset, and Uitenhage. The western province consisted of Beaufort, Cape Town, Cape district, Clan William, George, Stellenbosch, Swellendam, and Worcester (Tulbagh).

**Ward:** supposedly each district in the colony was divided into wards of equal size and a field cornet was in charge of each ward. In practice, however, neither the division nor the officer represented an effective governmental authority at the local level.

## INTRODUCTION

South Africa in the nineteenth century was one of the prime laboratories of the Empire in which Britain's institutions, policies, and interests were tested by a series of intense crises, frequent wars, and dramatic disasters. Because the historian has found so much in the way of momentous problems to assess and interpret, he has tended not to scrutinize less conspicuous subjects involving the British factor. Frontier policy, missionary influence, race relations, and the "will of the Boers" have been rightly viewed as some of the major problems in which British policies clashed with those of the Afrikaner or African, but South Africa's administrative history in the same period has remained relatively unexplored. In particular, little attention has been given to the structure of the colonial government that channeled the policies of the British. In questioning the government's capability to provide law and order in less controversial areas of administration, one may determine how the British undertook the day-to-day supervision of their responsibilities. In such an approach, there is a necessary distortion of the interactions of the other forces in South African history, and there is also a reduction of British interests to that of an administrative agency; on the other hand, the success of the government in establishing and maintaining jurisdiction in such fields as land alienation was as crucial to the fortunes of government in obtaining its goals, whether imperial or colonial, as it was to the peoples concerned.

Little is known about the intentions of the British in the field of land policy during the first fifty years of their occupancy of the Cape colony. The Cradock regulations of 1813 and the proclamation introducing the Ripon regulations in 1832 are readily identifiable as Britain's legislation for controlling the methods of land distribution. The first showed the energies of a governor; the second the wishes of London. However, neither constituted policy as an instrument of action; each showed only the "opinions" of the officials involved. Dispatches, proclamations, and official statements by the Colonial Office and the Cape governors may have no bearing on the policies actually enforced. It is at a lower echelon



of government that the programs of Downing Street and the governor's house were translated into an operational procedure. Here, in the office of a secretary to the governor, of a surveyor general, or of a district landdrost, were attitudes and skills that could influence and even curtail the effectiveness of the proclaimed intentions of government. But frequently because London and Cape Town discounted the function of their subordinates in the application of policies, the determining role of these offices, such as in the case of the Cape land board and the inspector of lands, may not have received proper emphasis. Certainly in the case of British land policy at the Cape, it was the appointees in the local government who defined the strength of government's rule. In several instances these officials framed and implemented their own procedures without seeking the approval of their superiors. A serious and permanent breach between official regulations and administrative practices developed early in Britain's land policy for the colony, and this breach was to have more impact on the character of land alienation than any formalized wish by a governor or colonial secretary.

Another quality in the operation of British land policy at the Cape needs to be emphasized. Throughout the period under review, the framers and administrators shared a common view as to what any policy should be. This view restricted the potential role of any reform, since land policy was considered as a service for only the European—as a means to regulate his relations to the state. Although at times land policy was made a part of larger programs of reform or control, it was not thought to be a means of adjusting relations among the competing ethnic groups within the colony.

As a regulatory service for the European, British land policy failed to obtain its objective. The administering authorities' negligence and ineptitude so restricted the employment of the laws introduced by London and Cape Town that at no time could the colonists come under a government-sponsored system of landholding. From 1813, the year when British executives first ventured into the field of land reform, until 1844, the year when the colony surrendered to London its right to control its own land policy, the Cape officials held the responsibility for providing an efficient, inexpensive administrative machine for regulating the alienation

of land. The failure of the Cape Town government to correct its highly centralized but inadequate and unsupervised system for the registration of land claims and the issuance of titles was deepened by London's occasional intervention in Cape land policy and her eventual imposition of an extrinsic land system in 1844. The predictable result of British land policy, from 1813 to 1844 and even beyond, was a perpetuation of confusion and insecurity and the development and continuation of an illegal, self-devised land system by the colonists. For government, land policy illustrated its impotence to render the commonly expected services of an authority claiming jurisdiction over an expanding multiracial society.



BRITISH LAND POLICY AT THE CAPE, 1795-1844



## CHAPTER ONE. THE UNCONTROLLED COLONY

ONE BASIC TRUTH IN SOUTH AFRICAN HISTORY from the day in 1657 when the Dutch East India Company allowed burghers to take up land outside the limits of the Cape Town settlement through the period of British rule, was that governmental authority seldom existed at the local level: government was always an imperfect and exceedingly primitive force which followed the expansion and development of society. It did not lead and it seldom came down to the inhabitant, either to confine or to assist him. Only the occasional cry of war effectively surmounted Table Mountain and produced groans of concern in the governor's residence, whether occupied by a Dutch or British national. By 1795 the colony's reaches were six hundred miles removed from the central government; its breadth was measured in days' journeys from vaguely defined, meandering borders on the north and east to the passes in the Hottentot Holland Mountains near Cape Town. The government at the capital, despite its many proclamations to regulate the lives of its citizens, did not get through the passes. Although the dispersion of the population and the harsh physical environment of the colony made it difficult to rule the Cape, any resolution or policy for the colony as a whole was limited by government's own lack of machinery and interest in undertaking enforcement. Land, the most essential ingredient in the society of an expanding, agrarian people, was officially encumbered in a multiplicity of tenures by Cape Town, but usually government sanction came only after the land had been claimed and used by the Hebraic-like Boers. By the end of the eighteenth century, the role of the colonial administration was to legalize what it could not prevent.

I. WHEN THE DUTCH COMMANDER SURRENDERED his authority to the British trio of Admiral Elphinstone and Generals Clarke and Craig in 1795, he left to his captors a colony whose area was estimated at 125,000 square miles—roughly the size of Arizona—stretching three hundred miles to the north and



six hundred miles to the east, where its borders merged with the lands of the Bantu, Bastards, and Bushmen.<sup>1</sup> Only one-tenth of the colony had been mapped; its natural features had still to be explored.<sup>2</sup> Despite an annual census compiled from information volunteered by the colonists, no accurate account could be given of the colony's inhabitants or state of wealth. It was thought that 15,000 Europeans, owning 17,000 slaves, lived in the colony in 1795.<sup>3</sup> Whatever their actual number, a small population in reference to the size of the colony was to remain a significant characteristic of the Cape.<sup>4</sup>

The geographical features of southern Africa did not assist the Cape colonists in their expansion into the interior. Rivers ran in useless courses; mountain ranges and high plateaus bisected routes of contact; and deserts and dry grasslands interrupted the flow of peoples and goods. John Barrow reported in 1797 that crossing the Great Karoo to get to the eastern districts meant a sixteen-day journey across the drylands without sight or sound of men. The ox wagon took a month to cover the distance from Cape Town to the eastern border.<sup>5</sup> One of the most useful guides for government officials and travelers published in 1835 was entitled *Itinerary of the Colony of the Cape of Good Hope Showing the Distances in Hours between the Principal Towns, Villages, etc. According to the different modes of Travelling in Use*, in which Grahamstown, near the eastern frontier, was listed as eleven days by horse from Cape Town if both rider and horse were in excellent condition.<sup>6</sup> It was sometime after 1795 that the colony received its first internal postal system. Roads of any quality were not constructed until the 1840's. Prior to that time the govern-

1. Since the colony was not surveyed until late in the nineteenth century, no one knew its exact size. The original estimate was revised by the British in the 1820's to 110,000 square miles, a figure no more accurate than the first.

2. John Barrow, *Travels into the Interior of Southern Africa* (2nd ed., 2 vols.; London: T. Cadell & W. Davies, 1806), I, 2.

3. H. Ross, secretary to government, "Census Returns," 1795, George McCall Theal, ed., *Records of the Cape Colony* (36 vols.; Cape Town: Government Printer, 1897-1905), I, 296-97.

4. By 1845 the European population had increased to 70,000, but even so the colony could not claim that it had, among its entire conglomeration of peoples, two persons to the square mile. "Return of the Population, and of the Marriages, Births and Deaths," Cape of Good Hope Blue Book for 1845, C.O. 5988 (Cape Archives, Cape Town), n.p.

5. Barrow, *Travels*, I, 2, 27.

6. Cape Town: A. S. Robertson, 1835.

ment on occasion had to warn the colonists not to block or to plow up those roads that were in existence.<sup>7</sup> The first railway was not laid out until the 1860's. The expansive seacoast, with its sandy river mouths, shallow inlets, and rock-bound points, did not encourage the development of coastal shipping. The establishment of Port Elizabeth in 1820 gave the southeast corner of the colony a more direct and less expensive link with Cape Town, but the majority of the country dwellers had to continue their reliance upon overland transportation.<sup>8</sup> Cape colony was a series of small, isolated grazing and farming communities that in theory constituted a single political unit.

Cape Town and its peninsula fulfilled the original purpose of the colony's founding by providing a convenient though expensive supply house for the Dutch East India Company and later, by the eighteenth century, for the French and British traders. The Cape also contributed to the support of other naval stations, such as Mauritius and St. Helena,<sup>9</sup> but the colony as a whole was not connected to the oceanic trade or to the European empires in the Southern Hemisphere. The Cape was poor; until quite late in its history its export trade consisted of miscellaneous items, such as ostrich feathers, ivory, animal fat, and some grain. One colonist summed up the situation in 1804:

By no means can one count the produce of the Colony among the so-called "precious" articles; in the main they consist only of corn and wine. Of the former, which is the sole and primary need of life, scarcely sufficient for our own consumption is produced; the second is of such a nature that at present (as ever previously) it cannot become a transportable article and hence one of actual trade.

The difficulty, therefore, of the transportation of our products, and the actual nature of these products (being hitherto, in fact, in no manner suitable for foreign trade) certainly makes us deplore the fortunes of this Colony by stating that on account of the much too large area it comprises, which is void of inhabitants and without

7. D'Escury to Bird, 6 Sept. 1814, C.O. 64 (Cape).

8. "Report of the Commissioners of Inquiry upon the Trade of the Cape of Good Hope, the Navigation of the Coast, and the Improvement of the Harbours of that Colony," 3 Oct. 1828, Theal, *Records*, XXXV, 249-51. See also Cape Town *Government Gazette*, 5 Dec. 1801.

9. The political repercussions of the economic dependency of the French and British stations upon the Cape have been traced by Vincent T. Harlow, *The Founding of the Second British Empire, 1763-1793* (2 vols.; London: Longmans, Green, 1952, 1964), I, 68-70, 103-45.

industry, it is like a being without soul, like an empty barrel, which sounds hollow, contains nothing and surely must one day stave to pieces from dryness.<sup>10</sup>

Seldom could the colony pay for its own needs through the exchange of goods.<sup>11</sup> The production of wool lay in the future when the Spanish merino would replace the smaller, hairy, fat-tailed Cape sheep; in 1808 the colony's woolclip filled one wagon and fetched approximately £100.<sup>12</sup> Wines were produced for local and foreign consumption, and the industry was to grow in the early years of the nineteenth century, but the wine farmers were in the southwestern part of the colony and their products merely added to the wealth of the Cape Town area. The more remote areas of European settlement could make few contributions to the economic life of the capital. Trade with the African communities on the colony's borders was declared illegal from time to time, but even when it did take place the benefits did little to help the inland settlers. The graziers, especially those in the north and east, were important chiefly to themselves and to their African laborers. Registered buyers for the Cape Town butchers wandered throughout the interior to collect livestock, but the capital's residents, the occupying forces, and the visiting merchants and sailors needed less than 5 per cent of the cattle and slightly more than 11 per cent of the sheep and goats owned by the colonists in 1797.<sup>13</sup> With the exception of the village of Stellenbosch, which served as a gathering place for some of the western grain and vine farmers, the colony had no internal market centers. The only village in the eastern district of Graaff Reinet, an area estimated to be almost twice the size of Scotland, consisted of about a dozen mud huts in which lived "neither butcher, nor chandler nor baker."<sup>14</sup> There were no fairs and no established crossroads for the exchange of goods. Grain

10. A. B. Thom, ed., *Willem Stephanus van Ryneveld: Se Aanmerkingen over de Verbetering van het Vee aan de Kaap de Goede Hoop, 1804*, trans. J. L. M. Franken and Ian M. Murray (Cape Town: Van Riebeeck Society, 1942), p. 39.

11. As late as 1834 the colony's imports exceeded its exports by almost £100,000. By this time the wine trade was declining and the wool industry was still in its infancy. See John S. Galbraith, *Reluctant Empire: British Policy on the South African Frontier, 1834-1854* (Berkeley: University of California Press, 1963), pp. 34-35, and S. Daniel Neumark, *Economic Influences on the South African Frontier, 1652-1836* (Stanford: Stanford University Press, 1957), p. 190, Appendix Table III.

12. Petrus Borchardus Borchards, *An Auto-Biographical Memoir* (facsimile reprint of 1861 ed.; Cape Town: Africana Connoisseurs Press, 1963), p. 303.

13. Barrow, *Travels*, II, 49-50, 67, 74, 82.

14. *Ibid.*, I, 65.

from the western section of the Cape did not find its way to the graziers who could not or would not cultivate the soil. The large numbers of livestock—over 250,000 cattle and more than 1,400,000 sheep and goats in 1797—were needed by their owners as the major source of their own subsistence. Travelers marveled at the high consumption of meat and the absence of bread products in the country.<sup>15</sup> Perhaps, too, the herds, which steadily increased in size, gave to the grazier his mark of status and his unit of wealth in an area where the forces of a market economy were indeed weak. Cape Town was a commercial center for only part of the colony's European population.

II. THE DUTCH COLONY'S CENTRAL GOVERNMENT consisted of a governor with a council of policy and a large collection of individual officeholders, boards, and courts; yet, in spite of its size, the central administration functioned best as a municipal organ. It could, with considerable success, regulate the baking and selling of bread, the butchering of cattle, and the brewing of beer, and it could police the Cape peninsula, issue paper notes, operate a bank, and control relations between citizens and ship crews. The capital was over-governed, while the interior had but a rudimentary administrative system. Communications between the branches of government were often irregular. District officials were expected to transmit reports to their superiors, but these documents, along with other correspondence, were delayed, lost, or not answered. Rarely were country officers honored with a personal visit by an official from the capital. Governors, both Dutch and British, and their staffs preferred to stay within the comforts of the peninsula.

The colony was divided into four districts, only one of which, the Cape district, resembled anything like a suitable unit of divisional government. It was eighty miles long and twenty-five miles wide and included the southwest Atlantic coast strip above and below Cape Town. The focal point of the district was the colonial capital. Here, in the town and district, a majority of the popula-

15. For example, *ibid.*, I, 67, 135, and II, 158; and Borchers, *An Auto-Biographical Memoir*, p. 54. See also C. G. W. Schumann, *Structural Changes and Business Cycles in South Africa, 1806-1936* (London: P. S. King & Son, 1938), p. 33.



tion of the colony lived, but still the area was sparsely settled and only a small fraction of the land was occupied and cultivated.<sup>16</sup>

The second district, Stellenbosch, was the oldest interior division, but this distinction did not make it a well-governed, compact unit of administration. It was thought to be about 380 miles long and 150 miles wide, beginning along the southern coast and darting off to the northwest corner of the colony. The vine and grain farmers living in the southwest corner of the district were connected through commerce with Cape Town, but the remainder of its population of less than five thousand grazed sheep and cattle on the plains or in the mountainous and semi-desert areas of the district's 55,000 square miles.<sup>17</sup>

The third district, Swellendam, had been created in 1745 to bring under colonial jurisdiction the graziers who had staked out claims to the southern coastal area.<sup>18</sup> It followed the shore line of the Indian Ocean for about 380 miles and cut inland to a depth of sixty miles. The 19,200 square miles of the district were occupied by no more than three thousand Europeans.<sup>19</sup> The more remote areas of Swellendam were six weeks' wagon travel from Cape Town.

The fourth district, Graaff Reinet, was the newest and least defined division. Created in 1786 as another attempt on the part of the Dutch East India Company to catch up with the advancing line of frontier expansion, the district contained over 50,000 square miles of relatively poor grazing land and extended 250 miles from north to south and 160 miles from west to east. Its village and administrative center, Graaff Reinet, was over five hundred miles east of Cape Town,<sup>20</sup> but the whole district was virtually cut off from the west by the intervening drylands known as the Karoo. Along the district's eastern border, the Great Fish

16. Barrow, *Travels*, II, 25-26.

17. *Ibid.*, pp. 52-67; and "Report of Landdrosts and Commissioned Heemraden of Stellenbosch and Swellendam," 7 Feb. 1770, Donald Moodie, ed., *The Record: or a Series of Official Papers Relative to the Condition and Treatment of the Native Tribes of South Africa* (photo reprint of 1838-41 eds.; Cape Town: A. A. Balkema, 1960), Pt. III, pp. 1-4.

18. The dispersion of the Boers in the eighteenth century has been projected on a series of maps by Eric Walker and A. J. Böeseke. Walker, *Historical Atlas of South Africa* (Cape Town: Oxford University Press, 1922), pp. 11-12, and maps no. 7, 9, 11; Böeseke, *Geskiedenis-Atlas vir Suid-Afrika* (Cape Town: National Press, 1948), maps no. 52-56.

19. Barrow, *Travels*, II, 67-73.

20. *Ibid.*, II, 74-82.







River, the Boers and the Bantu, two peoples sharing a common grazing culture, were competing for the same land. Bantu tribes were living within the district and advancing to the west, while some of Graaff Reinet's three thousand Boers had already crossed the river and were living to the north and east of the colony's limits.<sup>21</sup> From 1778 until the 1850's, the area's peace was riddled by war, cattle raids, and robberies by its multiracial population. Here government was at its weakest.

In each district, with the exception of the Cape, which was ruled from Cape Town, a landdrost acted as the administrator for the central government. He was charged with maintaining law and order, enforcing government decrees, rendering justice in civil cases, apprehending criminals, collecting taxes, registering and investigating land claims, and commanding the citizenry in war and on expeditions. The landdrost was "obliged to send a journal of all that had passed to the governor every three months,"<sup>22</sup> and if he failed to perform his duties, he could, of course, be dismissed from office. However, once appointed by the governor, he had little reason to fear censure from above, and the irregular system of communication among the parts of the colony prevented him from maintaining a close attachment to the central government. It was too easy for him to identify himself with his district, and whether he was a Dutch servant or, later, an English military officer on half-pay, he acquired the "feelings and prejudices of a local nature."<sup>23</sup> Even the more energetic landdrosts admitted that district practices could outweigh the instructions received from the capital.<sup>24</sup> Also, the landdrost was encouraged to neglect his duties and to become a grazier since he received the free use of a large tract of land.<sup>25</sup>

It was difficult for the landdrost to know his assigned area. His

21. The government accepted rent for farms which were not within the colony. Theal, "Digest of the Records," *Records*, V, 35; Barrow, *Travels*, II, 75-82.

22. W. S. van Ryneveld, "Abstract of the Functions of the Magistrates and Other Persons Employed in the Public Service in the Colony of the Cape of Good Hope before It was Surrendered to the Arms of His Britannick Majesty on the 16 September 1795," Theal, *Records*, I, 250-52.

23. "Report of the Commissioners of Inquiry to Earl Bathurst upon the Administration of the Government," 6 Sept. 1826, *ibid.*, XXVII, 356.

24. For example, see C. W. Hutton, ed., *The Autobiography of the Late Sir Andries Stockenström, Bart.* (2 vols.; photo reprint of 1887 ed.; Cape Town: C. Struik, 1964), I, 131.

25. Van Ryneveld, "A Plan for Amending the Interior Police in the Colony of the Cape of Good Hope," 31 Oct. 1801, Theal, *Records*, IV, 93-94.

residence, called a drostdy, was the site of the only town or village in the district. So underdeveloped were the interior markets within the colony that the few villages were the result of the establishment of drostdies. In the 1790's Stellenbosch was a town of seventy houses and several streets. Swellendam had thirty houses but no church until 1798. Graaff Reinet, while possessing a clergyman, had a tiny population "composed of mechanics and such as hold some petty employment under the landdrost."<sup>26</sup> Since the villages were not trade centers where the district's population might congregate on a regular basis,<sup>27</sup> the landdrost, as a resident officer, had to wait for the graziers and farmers to seek his services. As long as the colonists were a week or more away from their landdrost, they could not be expected to come to the drostdy except for an unusual emergency.

The landdrost was assisted by a board of heemraden, composed of about half a dozen of the "prominent" residents of the district. The board, acting with the landdrost, formed a court of law and committee of investigation. The heemraden took the yearly census, fixed tax assessments, assisted with the recording and investigation of land claims, and, in general, advised the landdrost. In Stellenbosch two boards helped the landdrost and they met once a month, but in the other districts the board met quarterly.<sup>28</sup> Since it was not continuously in session and since it naturally reflected the economic interests of the area, the heemraden was neither an effective nor suitable agency for assisting in the enforcement of government policies emitting from Cape Town.<sup>29</sup>

Each district was divided into wards which supposedly, by 1805, were no greater in size than a six-hour ride across any one of them (perhaps thirty-six miles). A field cornet was put in charge of a ward, but he was nothing more than a burgher who volunteered to perform certain services in exchange for the free use of land or

26. Barrow, *Travels*, II, 54, 67, 75.

27. A contemporary critic of the Cape's interior economy urged the establishment of fairs and markets as a way to upgrade the level of "civilization" of the Boers and to improve the administration of the interior. See a series of unsigned articles in the Cape Town *Government Gazette* of November and December 1801. John Barrow, superintendent of the press, was probably the author.

28. Van Rynveld, "Abstract of the Functions of the Magistrates," Theal, *Records*, I, 250-52; "Proclamation on the Administration of Justice," 26 July 1797, S. D. Naudé, ed., *Kaapse Plakkaatboek* (5 vols.; Cape Town: Government Printer, 1940-50), V, 91-96.

29. "Report of the Commissioners of Inquiry upon the Administration," Theal, *Records*, XXVII, 358-60, 379.

for exemption from taxation. His chief value, aside from mitigating disputes among his neighbors, was in calling out and commanding burghers in time of war or expedition.<sup>30</sup> After 1804 he was given additional duties, including minor judicial power, and the number of field cornets gradually increased. However, in 1797 the colony was divided into only fifty-six wards—each loosely composed—and had but forty-five field cornets in charge of them.<sup>31</sup>

The three landdrosts, four boards of heemraden, and forty-five field cornets comprised the governmental authority over the colony in the 1790's. Although during the first third of the nineteenth century the number of each gradually increased as new districts were created out of the subdivisions of the original four districts and by additions of territory to the colony, the government remained remote.<sup>32</sup> The chain of command tended to cease at the landdrost's drostdy. The cost of the interior administration was cheap, consisting on the whole in exemption from taxes or the free use of land, and despite its primitiveness the system did collect some revenue for the central government. These two factors contributed to its perpetuation.

III. THE LAND TENURES INTRODUCED BY THE Dutch and continued by the British reflected the varying degrees of control which the government had over the colony. In the more settled areas, such as Cape Town, the Cape district, and parts of Stellenbosch district, forms of Dutch freehold and quitrent gave

30. "Report of the Commissioners of Inquiry upon the Police at the Cape of Good Hope," 10 May 1828, *ibid.*, XXXV, 124-25.

31. Prior to 1804 the field cornet (*veldkornet*) was known as the *veldwach-meester*. "Proclamation and Instructions for and Appointment of Veldwach-meesters," 8 Nov. 1797, Naudé, *Kaapse Plakkaatboek*, V, 109-16; "Report of the Commissioners of Inquiry upon the Police," Theal, *Records*, XXXV, 123-25; and C. Graham Botha, "The Early Inferior Courts of Justice at the Cape," *The Collected Works of C. Graham Botha* (3 vols.; Cape Town: C. Struik, 1962), II, 109-12.

32. By 1845, there were thirteen districts in the colony:

<i>Name of district</i>	<i>Estimated area in square miles</i>	<i>Name of district</i>	<i>Estimated area in square miles</i>
Albany	1,792	Graaff Reinet	8,000
Beaufort	13,050	Somerset	4,032
Cape	3,584	Stellenbosch	2,280
Clan William	22,111	Swellendam	7,616
Colesberg	11,654	Uitenhage	8,960
Cradock	3,168	Worcester (Tulbagh)	20,000
George	4,032		

official security to the landholders, but in the large country districts leasehold and squatting were the tenures in which land was held.

Property or eigendom tenure was evidently the first tenure used at the Cape. It was applied to the building lots and garden plots in and around Cape Town. In some instances the land was granted gratuitously, as rewards to friends and servants of the administration. In other instances payment was required. After 1685 property grants had to be surveyed and registered in what was to become the colonial secretary's office. The stipulations for owning freehold varied from title to title, but most titles required the holder to turn over to the government one-tenth of the grain harvested; to allow the construction of roads through the property, usually without compensation; and to cultivate the land to its capacity.<sup>33</sup> The land was subject to forfeiture if any of the conditions in the title were violated. With the exception of building lots in Cape Town and Stellenbosch, the property grants by the end of the eighteenth century were usually sixty morgen in extent.<sup>34</sup> However, eigendom or Dutch freehold tenure was never an important system of landholding; its use was confined to the Cape and Stellenbosch districts. Its limited application can be seen in the fact that only 29,612 morgen had been surveyed in the colony by 1800, representing 1,364 diagrams of freehold property.<sup>35</sup>

Another minority tenure was quitrent, introduced in 1732. A fifteen-year lease for lands adjacent to existing holdings, it was intended to allow for the expansion of holdings without jeopardizing the interests of the Company.<sup>36</sup> From 1732 until 1812 the leases were renewed automatically at fifteen-year intervals, making the tenure a perpetual and secure one. The holders paid an annual rent of about two skillings per morgen (one English shilling or less), and the rent was based on the estimated capacity of

33. Cape of Good Hope, G. 30-'76, *Report of the Surveyor-General on Tenure of the Land, Land Laws, and Their Results* (Cape Town: Government Printer, 1876), pp. 5-6, 11-13.

34. J. H. Craig, "Observations on the Revenue of the Cape of Good Hope," enclosure in Craig to Dundas, 18 Dec. 1795, Theal, *Records*, I, 255-56.

35. Cape of Good Hope, *Report of the Commissioners appointed for the Purpose of Determining the Unit of Land Measure* (Cape Town: Government Printer, 1859), Appendix A.

36. Truter to Bird, 28 June 1811, enclosure in Cradock to Liverpool, dispatch 15, 4 March 1812, C.O. 48/13 (Public Record Office, London); *Report of the Surveyor-General on Land Tenure*, p. 18.



the soil. If, at the end of the lease, the government wished to resume the ground, it paid for all improvements. The leases were not subject to survey nor were formal contracts drawn up. The size of the grant was estimated, its rent fixed, and the holder's name was registered in the secretary's office.<sup>37</sup> In 1797 there were only thirty-five quitrent grants in the entire colony, twenty-five in the Cape district and ten in Stellenbosch district.<sup>38</sup>

The most widely used method for the holding of land was the loan-farm system, with its loan places. The tenure, more the result of innovation than a product of Roman-Dutch law, grew out of the Company's practice of leasing ground for three, six, or twelve months for cultivation and grazing. During the eighteenth century the system of leasing gradually became regularized and was applied chiefly to cattle and sheep runs beyond the Cape district.<sup>39</sup> A uniform rent or due, irrespective of the ground's fertility, was fixed at twelve rixdollars per year in 1714, a sum raised to twenty-four rixdollars in 1732. By the 1790's more than 80 per cent of all land held by the government's acquiescence was leased under loan tenure. It was the only tenure in use in the frontier districts of Graaff Reinet and Swellendam.<sup>40</sup>

Government approval of a request for a loan farm came easily. An applicant asked his local landdrost for permission to occupy a fixed point of land and agreed to pay the standard rent and a stamp duty of six rixdollars per year. If he thought it necessary, the landdrost asked the heemraden to resolve any conflicting claims for the land. Sometimes a rough sketch was made, but the land was neither accurately measured nor described in a formal document. The plot was walked off—a half-hour's steady pace in each of the four primary compass directions—and the boundary was marked by an occasional beacon or earthen work. Each place was thought to contain three thousand morgen, about six thousand acres or nine square miles. Although the landdrost was expected to transmit the request to Cape Town for proper registration,

37. *Report of the Surveyor-General on Land Tenure*, p. 7.

38. Barrow, *Travels*, II, 87.

39. Baumgardt to Bird, 23 Nov. 1810, enclosure in Cradock to Liverpool, dispatch 15, 4 March 1812, C.O. 48/13 (P.R.O.). See also H. M. Robertson, "Some Doubts concerning Early Land Tenure at the Cape," *South African Journal of Economics*, III (1935), 162-72, an important essay that points out the complexity in the land policies of the Company and stresses the need for further research into the origins of all of the tenures employed.

40. Barrow, *Travels*, II, 66-67, 75.



custom held that if the district officer approved the grant the holder had obtained legal recognition of his place.<sup>41</sup>

At best, the system was a form of legalized squatting. No attempt was made to provide uniform blocks of land or to keep loan farms contiguous with one another. Some stretched out along a water course, while others stretched out in all directions.<sup>42</sup> The government's unfamiliarity with the districts and the terrain resulted in its acceptance of the Boers' assurances that their loan farms did not exceed three thousand morgen. But a loan-place holder had little reason not to use any neighboring unoccupied land. A surveyor in 1812 informed the government that "every Farmer about this part of the Country, without exception, claims and cultivates three-fourths more land than they have a legal right to."<sup>43</sup>

The loan places, rather than being properly constituted farms, were chiefly established centers of grazing life in the interior. They were the more fixed points in a constantly moving society that lacked governmental direction. There is every reason to assume that any applicant for a loan place had already tested its soil and grass and was living on the land before he asked for government approval. In some sections of the colony, a grazier had to have two or more farms to provide for his herds, and the government allowed him to hold as many farms as he wished.<sup>44</sup> Since

41. Caledon to Castlereagh, dispatch 73, 16 Oct. 1809, C.O. 48/4 (P.R.O.); Melvill to Bird, 23 July 1812, C.O. 53 (Cape); *Report of the Surveyor-General on Land Tenure*, p. 5.

42. Contrary to the more popular view that the mode of measuring farms resulted in circular- or square-shaped blocks, the land department records show farms of all shapes, including one resembling a five-pointed star. Land Board to Secretary to Government, 16 June 1831, C.O. 391 (Cape).

43. Melvill to Bird, 23 July 1812, C.O. 53 (Cape).

44. In 1814 the total of 2,206 farms held by private individuals was distributed as follows:

<i>Number(s) of individuals holding farms</i>	<i>Number(s) of farms held by each</i>
1,602	1
5	2
99	3
31	4
16	5
3	6
2	7
1	8
2	9
2	11
1	13

Charles D'Escury, "Sketch on Land Tenure in Colony, Of the Progressive State of

water was the first necessity of life, the loan farms were often placed around springs and water holes and thus provided a necessary monopoly to their holders.<sup>45</sup>

Through custom resulting from the laxity of the government, loan tenure acquired many of the attributes of freehold property but few of the restrictive clauses imposed in the colony's freehold titles. The government's power to terminate a lease—even if rents were in arrears—fell into disuse. Indeed, by the time of the administrations of Governors Caledon and Cradock, Cape Town felt that it could not terminate a lease unless it could show that the land was needed for a public work.<sup>46</sup> Technically, loan farms could not be sold; only the improvements erected on the soil could be considered the property of the holder, but farms were bought and sold on the basis of the value of the land.<sup>47</sup> Even the government failed to abide by this differentiation, and when it canceled a lease, it usually paid the holder for the land and for all improvements. Subdivision was not legally possible, but it, too, was done by the holders on an informal basis.<sup>48</sup> As years passed and the value of the rixdollar declined, the annual rent became a relatively nominal fee. Whereas, according to one Cape official, a farmer needed three oxen to pay his rent of twenty-four rixdollars in the late eighteenth century, he needed less than one to meet the obligation in 1814.<sup>49</sup>

A variation on loan tenure did take place in 1743 when the Dutch governor sought to give a greater security of tenure for a reduced holding. On application a loan-farm holder could con-

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the Measure for Converting and Improving the Land Tenure in This Colony, corrected to 6 Sept. 1821," C.O. 154 (Cape).

The distribution of loan farms raises an interesting question: the role of the speculator in southern Africa. Although it would be difficult to assess his importance because of the lack of sufficient personal papers in archives, some conclusions could be obtained from a perusal of the land department records in the Cape Archives.

45. The names given to the farms help to indicate their locations. The words "river," "spring," and "valley" were usually made a part of the name of the farm. C. Graham Botha, *Place Names in the Cape Province* (Cape Town: Juta, [1926]), pp. 104-12, gives a partial listing of the farms and provides some commentary on the origin of the names used.

46. Caledon to Castlereagh, dispatch 73, 16 Oct. 1809, C.O. 48/4 (P.R.O.); Van Ryneveld to Bird, 24 Jan. 1812, enclosure in Cradock to Liverpool, dispatch 15, 4 March 1812, C.O. 48/13 (P.R.O.).

47. See advertisements in Cape Town *Government Gazette*, 31 Oct. 1801; Craig, "Observations on the Revenue," Theal, *Records*, I, 255-59.

48. Van Ryneveld to Bird, 24 Jan. 1812, enclosure in Cradock to Liverpool, dispatch 15, 4 March 1812, C.O. 48/13 (P.R.O.).

49. D'Escury to Bird, 22 Nov. 1814, C.O. 64 (Cape).

vert sixty morgen of his place into what was called "loan freehold" tenure. In exchange for a formal deed and survey, the applicant would pay twenty-four rixdollars per year for his smaller holding, which was to include his major buildings and improvements. Under the new code the possessor of a loan freehold could transfer his property and legally subdivide it.<sup>50</sup>

Conceivably, loan freehold would enable a loan-place holder to protect his property better as pressure on land became more intense, but threats to a colonist's occupation of land were unlikely in a colony which had such a low density of European population and which had new sources of land to the north and east. The response to the 1743 regulations was so poor that by 1798 only 107 transfers had been made of loan farms into loan freeholds.<sup>51</sup> Custom also dictated that a loan freeholder, paying twenty-four rixdollars for sixty morgen, had the right to use the remainder of his loan farm as free pasturage. When, in 1810, the governor was asked to confirm this right of pasturage, it was argued by the receiver-general of land revenue that the authorities had long since acquiesced to the custom and that everyone knew it.<sup>52</sup> Thus a loan freehold was in fact a loan place.

A conclusion might be drawn that farmers and graziers would willingly participate in the system of loan tenure. It provided extensive blocks of land at a nominal rent; it allowed the colonist to avoid the costs of survey; and it gave the holder a quasi-legal right of undisturbed possession. But the question must be asked whether the individual needed to participate in any government-sponsored system. In one of the few modern considerations of Cape land policy, H. A. Reyburn has concluded:

The very ease with which land could be acquired discouraged many farmers from applying for any at all. They lived on Government land without permission, and little was done to prevent them. Why then go to the trouble of sending in a memorial to Government, and tying yourself down to one spot, when you can graze your cattle on the land as you please, remain there as long as you like, and move to another spot when fancy or drought urges you to do so? Most of the farmers on the frontier did not hold land, and had never petitioned for it.<sup>53</sup>

50. *Report of the Surveyor-General on Land Tenure*, p. 6.

51. There were forty-three in the Cape district, forty-six in Stellenbosch, and eighteen in Swellendam. Barrow, *Travels*, II, 86.

52. Baumgardt to Bird, 23 Nov. 1810, enclosure in Cradock to Liverpool, dispatch 15, 4 March 1812, C.O. 48/13 (P.R.O.).

53. H. A. Reyburn, "Studies in Cape Frontier History," *The Critic* (University of Cape Town Quarterly), III (Oct. 1934), 41.

Using the opgaaf (tax) rolls in the Cape Archives and comparing the tax census with the lists of loan farms, Reyburn has concluded that only a minority of the families in both the settled and frontier districts went to the trouble of securing government recognition for the lands they held. In the eastern part of the Cradock district in 1812-13, fewer than 38 per cent of the families in one subdivision had their holdings recorded. Along the border between the colony and Kaffaria, fewer than 18 per cent of the farms were registered. In the field-cornetcy of another district in 1814, only five out of fifty families were legitimate occupiers.<sup>54</sup>

Reyburn's conclusions are supported by the numerous petitions drawn up by squatters beyond the colony's borders asking for the extension of government authority eastward. For example, in 1775 the governor requested the landdrost and heemraden of Stellenbosch to report upon

a certain written petition from some inhabitants who had placed themselves beyond the Bruyns Hoogte, and thus over the permitted and appointed limits, in which they earnestly request, not only permission to remain there, in consideration of their poverty, and the advantageous circumstances of the country there with regard to pasture and water for their cattle, and otherwise; but also to continue to possess the places, now inhabited by them, on loan, under the Company.<sup>55</sup>

While waiting for the government to expand its jurisdiction, the Boers occupied whatever land they pleased. Even after they were incorporated into districts, they had little reason to seek government approval for what they already possessed.<sup>56</sup> Reyburn's figures may support the contention of Henry Alexander, colonial secretary to Governor Cradock, that most loan farms were held by the more established and wealthier sector of the community and not

54. *Ibid.*, pp. 41-42.

55. "Report from the Landdrost and Heemraden of Stellenbosch to Governor Plettenberg and Council," 30 Jan. 1775, in Moodie, *The Record*, III, 47. See also, "Proclamation by Ryk Tulbagh," 26 April 1770, "Report from the Landdrost and Heemraden of Swellendam to Governor Plettenberg and Council," 17 March 1775, and "Extract from Dispatch from Governor Plettenberg and Council to Chamber XVII," 1 March 1779, *ibid.*, pp. 6-7, 47-48, 78. A new and richly detailed account of the Cape in the eighteenth century, based upon a close reading of the sources available, is that of Margaret Whiting Spilhaus, *South Africa in the Making, 1652-1806* (Cape Town: Juta, 1966). See especially pp. 89-107 for the Company's troubles in attempting to deal with the frontiersmen.

56. The commissioners of inquiry, sent to investigate the colonial administration in the 1820's, could not ignore the extensive amount of squatting in the colony and suggested that the government collect a tax from the illegal as well as the legal occupiers of government lands. ("Report of the Commissioners of Inquiry upon the Finances," 6 Sept. 1826, Theal, *Records*, XXVII, 401, 405, 407, 413-15.) See chap. vii, pp. 98-99, below.



by the average grazier.<sup>57</sup> Squatting was as much a part of the South African frontier as it was of the American and Australian.

In spite of all of its many proclamations for regulating the variety of tenures allowed in its colony, the Dutch East India Company had little real power over the alienation of land. Anxious to maintain an ultimate interest in the land grants, even those made in freehold, the Company had been reluctant to give any right of permanent ownership to its subjects in much of the colony. Yet, because it had not developed a successful means to rule the interior, the Company had abdicated to its colonists the right to select, occupy, and hold land at will. The Boer was in fact a free agent who devised his own forms of security for the land he claimed. If the new British administration were to possess more control over the alienation of land, it would have to devise a way to carry the force of government into the colony of the Boers. Coupled with the need for a devolution of authority in the country districts was Cape Town's need to recognize the existing land systems, loan place and squatting, as the base upon which to build any new government-sponsored system. The basic problem was one of making the central authority a partner in the alienation of land in a colony that had long since separated itself from its capital.

57. Alexander to Cradock, 13 Jan. 1812, enclosure in Cradock to Liverpool, dispatch 15, 4 March 1812, C.O. 48/13 (P.R.O.).

## CHAPTER TWO. BRITISH LAND POLICY DURING THE FIRST OCCUPANCY, 1795-1803

THE FIRST OCCUPATION OF THE CAPE BY THE British was the culmination of a policy that had been formulated in 1780 when the Netherlands joined France, Spain, and the American colonies in their war against Great Britain. The Cape, dubbed the "Gibraltar of India" by the English East India Company, was no longer in friendly hands; indeed, the new Eastern alliance, a union of Dutch bases and French sea power, threatened to end Britain's position in India and her expanding trade with China. The crisis came to an end momentarily in 1783, but the British government, chiefly through the steady efforts of Henry Dundas, wanted to insure that England's commercial empire in the East would have adequate protection in the future. The taking of the Cape in 1795 ended fifteen years of frustrated expeditions and unproductive negotiations.<sup>1</sup> Once Britain gained her objective, doubts began to be uttered about the wisdom of keeping the colony. In 1797 rumors were already circulating that at the peace table Britain would surrender the Cape and keep only Ceylon, which she had captured in 1796.<sup>2</sup> The doubts were ill-founded in 1797, but they were to be the terms of negotiations which were included in the Peace of Amiens in 1802. Thus Britain's first stay at the Cape was a short wartime action which ended when the Addington ministry decided that the Cape was of less importance than had been maintained since 1780. In 1805 Pitt returned the government to the policy of 1795 in response to Napoleon's maritime strategy and launched a new invasion of the Cape.<sup>3</sup> This time the British were to remain, but it was during their first brief command over the Cape from 1795 to 1803 that they developed the pattern and philosophy of government which they were to use during their second and permanent stay.

If the Cape had been closer to the shores of India or to the

1. Harlow, *The Founding of the Second British Empire*, I, 116-45.

2. Barnard to Dundas, 29 Nov. 1797, Lady Anne Barnard, *South Africa a Century Ago: Letters Written from the Cape of Good Hope (1797-1801)* (London: Smith, Elder, 1901), p. 143.

3. L. C. F. Turner, "The Cape of Good Hope and the Anglo-French Conflict, 1797-1806," *Historical Studies: Australia and New Zealand*, IX (May 1961), 368-77.



clusters of islands in the Caribbean or even to another European colony, the British might have been more imaginative or at least more energetic in establishing their rule, as they were in Ceylon. Unlike her sister colony, Ceylon was placed under the authority of the English East India Company and received some of the procedures and personnel of the Madras establishment. The governors of Ceylon also attempted to improve their administration by employing civil servants who could speak both Singhalese and English, by creating new offices, such as the Land Survey Department, and by codifying the colony's Roman-Dutch law. In 1802 a new civil administration was created when the crown resumed direct control over the colony, and the new governor was furnished with an advisory council.<sup>4</sup> Similar reforms were not framed for the Cape until the 1820's. In the old West Indian colonies, the planters and merchants possessed a number of instruments to direct their own governments and to adjust imperial decisions to fit their situation. Whereas many of these colonies were not ruled well, they were furnished with a structure of government that included all levels of the European community, and the colonists did engage in an active dialogue with their appointed superiors.<sup>5</sup> In the newly conquered islands, as in Quebec during the first years of Britain's occupation, deliberate attempts were made to pacify a foreign population by preserving their customs and culture while still strengthening the new government by borrowing institutions from older colonies and by experimenting with new arrangements. Although Britain was reluctant to exercise its right to interfere in the internal affairs of its colonies, whether they were newly acquired or long established,<sup>6</sup> London was in much closer touch with North America and the Caribbean than it was with the Cape. The Cape was connected to the West Indies in only one respect: it, too, had a slaveholding European population. Yet while London after 1807 became increasingly more concerned with the welfare of the slave wherever he resided, the nature of British rule at the Cape rarely became a subject for discussion in

4. Lennox A. Mills, *Ceylon Under British Rule, 1795-1932* (reprint of 1933 ed.; London: Frank Cass, 1964), pp. 16-27, 36-44.

5. D. J. Murray, *The West Indies and the Development of Colonial Government, 1801-1834* (Oxford: Clarendon Press, 1965), pp. 23-30.

6. *Ibid.*, pp. 1-4, 51-55, 87-88; Helen Taft Manning, *British Colonial Government after the American Revolution, 1782-1820* (New Haven: Yale University Press, 1933), pp. 88, 164, 343-45.

Downing Street. From an early date the Cape was at least partially detached from Britain's imperial problems elsewhere. From time to time its own peculiar problems, such as its frontier wars, caught the attention of the cabinet. On other occasions the Cape was included in the imperial policies which originated in the activities of the humanitarians and economic reformers, but the colony was seldom accorded the ability to become a separate or important economic unit within the British Empire. Its value was to lie in Cape Town's relation to the Indian trade, though the colony was not made a part of Britain's Indian world.

With the exception of one or two small ripples of reform, the first British administration in residence at the Cape chose to be a conservative, if not reactionary, governing force that sought to mediate or postpone solutions to the colony's problems through the issuing of decrees from the capital. Two outstanding characteristics of the first occupancy were an indifference to the needs of the colonists and a desire to preserve intact the old Dutch East India Company's government. Although the British commanders in 1795 pledged themselves "to adopt every measure which may appear to promote the prosperity of the settlement and the happiness of the inhabitants,"<sup>7</sup> few measures were forthcoming as the executives relied more heavily on Henry Dundas' instructions: to administer the colony "as nearly as circumstances will permit . . . in conformity to the Laws and Instructions that subsisted under the antient Government of the said Settlement. . . ."<sup>8</sup> In one instance a governor did seek to change the existing philosophy on the Cape's worth, but his ideas were overcome by the tide of orthodoxy and do-nothingness. What this meant was that the British occupied the Cape from 1795 to 1803; they, like the Dutch East India Company before them, did not control it.

The British consolidated the powers of the Dutch governor and his council of policy into a single office and eliminated some other officials. On the whole, however, the British administration was grafted on top of the existing civil service. Almost all of the old Dutch servants were retained, especially those in charge of the country districts.<sup>9</sup> One, Willem Stephanus van Ryneveld, as fiscal

7. British Commanders to Inhabitants of Swellendam, 18 Sept. 1795, *Theal, Records*, I, 131.

8. Instructions to the Earl of Macartney, 13 Dec. 1796, *ibid.*, II, 6.

9. *Theal, "Digest," ibid.*, V, 2, 30.

(colonial prosecutor), became the liaison between the Dutch-speaking colony and its English governors. He and those familiar with the colony's society and economy were seldom asked to furnish reports on any but the most pressing concerns of government. Once established in the old castle in Cape Town, the British governors were content to live with the Dutch machinery as they found it; the test of efficiency was not to be applied, and, perhaps, there was some virtue in maintaining what they did not understand.

Some action had to be taken by the British, however. Yet, as in the past during the days of the Dutch administration, almost all of their activity affected only the western section of the colony.<sup>10</sup> Military force was dispensed to put down the ill-conceived and ill-fated attempts at revolution on the part of Graaff Reinet and Swellendam, whose Boers asked as one condition for their submission that they be allowed to go beyond the colony to obtain new land.<sup>11</sup> Some troops entered the guerrilla campaigns of the Boer and Bantu in the Great Fish River area, but little more was done to insure frontier tranquillity than to issue proclamations prohibiting interracial contact.<sup>12</sup> In 1798 the governor restated the limits of the colony, but so unknown to the British was the frontier terrain that the enumerated rivers, mountain ridges, and peaks could not be geographically connected to form a continuous boundary.<sup>13</sup>

Also, they had to take some action in the field of land policy, but they gave it scant attention. In 1795 the British commanders found the colonists owing about 200,000 rixdollars in land rents.<sup>14</sup> During the last few years of Company rule, the arrears from land had steadily increased as the colonists pushed eastward and as the Company's administration degenerated. By a proclamation issued on 15 October 1795, the British command announced that it would "abstain from enforcing the collection of any arrears of rents of lands or other duties arising from Lands due for more

10. Eric A. Walker, *A History of Southern Africa* (3rd ed.; London: Longmans, Green, 1957), p. 128.

11. Burghers of Graaff Reinet to Craig, 12 Nov. 1796, Theal, *Records*, I, 480.

12. Instructions for the Landdrost of Graaff Reinet, 20 June 1797, *ibid.*, II, 95-101; Proclamation of 14 July 1798, Naudé, *Kaapse Plakkaatboek*, V, 138-39.

13. Proclamation of 14 July 1798 and Theal, "Digest," *Records*, V, 35.

14. Later it was discovered that the total amount of land arrears due in 1795 was 399,896 rixdollars. Office of Land Revenue to Plasket, 10 July 1827, C.O. 315 (Cape).

than one year back. . . ."<sup>15</sup> The boon was given for two reasons: to quell the populace and overcome the rebellious streak in Graaff Reinet and Swellendam and to encourage the colonists to pay their current taxes and rents to the British government.<sup>16</sup>

Yet the simple removal of the burden of arrears would hardly insure the payment of rents to the British unless some means of enforcing payment could be conceived. From 1795 to 1803 each executive deplored the failure of the colonists to pay their land rents. New arrears mounted; by 1802 the colonists owed 78,000 rixdollars.<sup>17</sup> Indeed, throughout the entire period of British control, from 1795 to 1844 and beyond, the administration was faced with arrears in taxes and land rents. The incapability of the government to collect was confused with a refusal on the part of the colonists to pay: "The difficulty in collecting this branch of the public revenue proceeds from unwillingness, but by no means inability to pay, since with very few exceptions, the farmers are sufficiently affluent to render the payment. . . ."<sup>18</sup>

Once in a while an executive saw some of the factors which contributed to the problem. Major General Francis Dundas, acting governor of the Cape in 1801 and veteran of Brandywine and Yorktown,<sup>19</sup> wrote his superior in London:

The very great extent of the country districts, the supineness of the landdrosts, the want of subordinate magistrates, and the difficulty of speedy communications made almost impracale [*sic*] any improvement which might be proposed for the full collection of this branch of the revenue, however I shall endeavour to prevent the encrease of the arrears at present due, by adopting such measures for compelling a due attention to the annual payment of the Land rents as shall appear best calculated for that purpose.<sup>20</sup>

But even Dundas' efforts did not amount to more than a reissuance of earlier proclamations.

The British needed every rixdollar they could collect from the

15. Theal, *Records*, I, 200.

16. Craig to Dundas, 18 Dec. 1795, *ibid.*, 264-65.

17. Office of Land Revenue to Plasket, 10 July 1827, C.O. 315 (Cape).

18. Major General Dundas to Hobart, 12 Dec. 1801, Theal, *Records*, IV, 119-20.

19. Dundas entered the army in 1775, saw action in a number of campaigns, and was with Cornwallis in 1781. He then served in the West Indies before going to the Cape in 1796. Twice he acted as governor, from November 1798 until December 1799, and from April 1801 to February 1803. Sir Leslie Stephen and Sir Sidney Lee, eds., *Dictionary of National Biography* (new ed., 22 vols.; London: Oxford University Press, 1921-22), IV, 185-86.

20. Major General Dundas to Hobart, 12 Dec. 1801, Theal, *Records*, IV, 119-20.



colonists. From the beginning of their stay, they learned that the colony could not afford to pay for the administration which it had received. Earlier, in the 1780's, the Dutch had found the Cape to be their most expensive East Indian base, but this was in part due to the lack of adequate supervision over the extravagance of those in power.<sup>21</sup> Despite the wartime conditions, Britain was exceedingly generous in providing salaries for its own appointees in the conquered colonies.<sup>22</sup> The governor of the Cape received £10,000 per year, plus a table allowance of £2,000; the secretary to government was given £3,500 and a house; the lieutenant governor was paid £3,000. Of course lesser officials received smaller amounts, but during these years Britain apparently considered it indecent to offer an Englishman less than £1,000 a year to accept a post at the Cape. The governor's salary alone amounted to almost 25 per cent of the entire revenue in 1797.<sup>23</sup> In 1799 the acting governor and the incoming governor each received £10,000.<sup>24</sup> The English civil servants were expensive to keep, but the colony's military budget increased, too. Henry Dundas, who had been so liberal in establishing the salary for the governor, had authorized his appointees to call upon the British exchequer to meet any deficits.<sup>25</sup> The response to the invitation was much greater than Dundas or Britain had expected. In listing its reasons for returning the Cape to the Dutch in 1802, the Addington ministry told parliament: "the expense of it had been enormous, its revenue did not pay its civil establishment, it was a peculiarly expensive station for ships. . . ."<sup>26</sup> In later years the colonial secretaries launched one economy drive after another for the Cape. While London's interest was commendable and, on occasion, necessary to check the habits of its governors, the actions for restricting expenses seldom led to an appraisal of the Cape's situation. Few men wondered if a better administration could be had at the same or at a lower cost. The money Britain appropriated was used chiefly for personnel in Cape Town and for frontier defense. Little was spent to expand the structure of government in the

21. Walker, *History of Southern Africa*, pp. 105-6.

22. Manning, *British Colonial Government after the American Revolution*, pp. 384, 397-98.

23. "General Statement of the Revenues at the Cape of Good Hope while under the Protection of the British Government from Oct. 1795 to Oct. 1801," Theal, *Records*, V, 409-11.

24. Barnard to Dundas, 5 Jan. 1800, *South Africa a Century Ago*, p. 260.

25. Manning, *British Colonial Government after the American Revolution*, p. 398.

26. Turner, "The Cape of Good Hope and the Anglo-French Conflict," p. 371.

country districts. The result was that the expenses of the colony remained disproportionate to the administration's efficiency.

The first civil governor, George, Earl of Macartney,<sup>27</sup> became the model for future governors. However, his stay was too short—less than two years—for him to provide his successors with a helpful rule book. Macartney suffered from gout<sup>28</sup> and declined to leave the castle at Cape Town to see the country for himself. He sent his private secretary, John Barrow, into the interior to acquire as much information as possible about the country. Barrow's usefulness was limited; his capsule commentary tended to simplify the life he sought to describe, and while he suggested ways to improve the colony in the future, he did not concentrate on expanding the links of government over the colony.<sup>29</sup> With Barrow and Van Ryneveld's help, Macartney attempted, through executive orders, to grapple with some of the colony's problems, such as the tensions along the frontier. He suspended land rents on farms threatened by the Bantu if the Boers would stay on them, and he offered rent-free farms to those who would move into the frontier zone. He prohibited contact between the races and ordered all Bantu servants out of the colony.<sup>30</sup> But proclamations issued five hundred miles away had no means of implementing themselves. Aside from offering some Boers rent-free farms, Macartney did nothing else in the field of land policy.

The next governor, the ill-famed Sir George Yonge,<sup>31</sup> has been described as "decidedly the most incompetent man who has ever

27. Macartney, diplomat, administrator, and scholar, had served on special missions on Far Eastern commerce, traveling to China in 1792. He was specifically recruited by Pitt's ministry for the governorship and received the same salary which he had had when traveling to China as a special ambassador. Earlier he had refused the governor-generalship of India and later he declined the presidency of the Board of Control for India. (*D.N.B.*, XII, 404-6.) Macartney agreed with Henry Dundas on the strategic value of the Cape, but even while serving as governor of the colony he maintained that Ceylon was of greater worth. Turner, "The Cape of Good Hope and the Anglo-French Conflict," p. 369.

28. "If he felt he could have stayed longer with safety to himself I am convinced he would; but the gout hangs constantly over him, never fixing itself properly, and often making him feel himself hardly more than the tenant of the hour." Barnard to Dundas, 10 Nov. 1798, *South Africa a Century Ago*, p. 203.

29. His *Travels into the Interior of Southern Africa* was based on his reports to Macartney.

30. Instructions for the Landdrost of Graaff Reinet, 20 June 1797, Theal, *Records*, II, 95-101; Proclamation of 14 July 1798, Naudé, *Kaapse Plakkaatboek*, V, 138-39.

31. Yonge, son of Sir William Yonge, followed in his father's footsteps and twice served as secretary at war. His career in parliament, begun in 1754, lasted until 1796, and he served in a number of cabinets. In 1799 he stepped down as master of the mint to take command of the Cape. He was then seventy years old. (*D.N.B.*, XXI, 1239-40.) Evidently Yonge was appointed governor because of his friendship with George III. *South Africa a Century Ago*, p. 229, n. 1.



been at head of affairs in the colony" and as "a man entirely wanting in sound judgment."<sup>32</sup> Yonge, old and too responsive to flattery, was inclined to put too much trust in those who called themselves his friends, and as an administrator he often failed to record his decisions on paper. Yet he was anxious to make his mark as governor; he wanted to be a success. The wife of the secretary to the government described him well:

Our new Governor, I fear, is a very, very weak old soul. He is full of good intentions and great intentions, but how his acts will turn out I am not sure. He is disposed to conceive that he is the man who is to make this a fine and flourishing Colony; that no one else at home was thought equal to that task; that nothing as yet has been done. He does not perceive the wisdom of our late Governor (I mean Lord Macartney) in pausing over all measures which were likely to disburse the public money till he was sure the Cape was to remain with us, while he permitted no wise regulation which cost nothing to remain undigested, or established. On the contrary, Sir George Yonge is for having every supposed improvement done at once, and I fear does not begin with the things most necessary, but with those most connected with his own domestic conveniency.<sup>33</sup>

Yonge arrived in December 1799, but his stay ended prematurely at the end of seventeen months when he was recalled for misgoverning and contributing to corruption. The old baronet probably deserved the treatment he received from London, but he also is entitled to a higher place in the ranks of Britain's early governors of the Cape. He was the first English reformer to occupy the governor's residence. He was the first executive (and the only one during the first occupation) who was shocked enough by the chaotic situation in the Cape government to give some attention to reform. His value lies in his willingness to go beyond the then current idea that the Cape was a refreshment station on the highway to the East and to focus some attention on the colony as an agricultural enterprise which might become an "Anglo-Saxon" royal colony within the Empire. To Yonge, a reformed administration and an upgraded land policy were two essential steps in increasing the colony's importance to its masters.

In 1800 he was looking forward to the day when a peace would end the bitter global conflict between the European powers; plan-

32. Theal, "Digest," *Records*, V, 62.

33. Barnard to Dundas, 5 Jan. 1800, *South Africa a Century Ago*, p. 250.

ning ahead, he saw the meshing of England's postwar problems with the Cape's persistent ones. In some respects Yonge's solution was the same that was later to be developed by Edward Gibbon Wakefield and the "systematic colonizers." England's discharged soldiers would be transported to the Cape, where they would contribute their labor and capital to the building of a British community. The ideal climate and the unlimited opportunities in the colony could be enjoyed by at least ten thousand British soldiers and their families, Yonge wrote Henry Dundas, and the new population would contribute to the stabilization of the colony and to its defense.<sup>34</sup> Yonge's proposal was not original. The British had used free land grants to retiring officers and enlisted men as a means of encouraging settlement of North American colonies.<sup>35</sup> In 1776 the American Continental Congress began to offer deserters from the British forces free land grants even before it had acquired the public domain.<sup>36</sup> The loyalist communities in Canada and in the Maritimes after the Revolution contained a large number of soldiers-turned-settlers as Britain continued to apply the idea.<sup>37</sup> However, the introduction of the system to the Cape was original on Yonge's part.

To prepare the Cape for its future role, Yonge saw the need to improve the administration of government. The force of law would be brought down to the existing colonists through the establishment of an annual court on circuit, with powers to enforce the laws, render justice, and investigate local conditions. Secondly, the land tenures were to be reviewed and possibly reformed.<sup>38</sup> In particular, Yonge was impressed with what he considered to be the ill effects of the loan-tenure system: he thought that tenure was too precarious, since the government had the right to resume the land and to subject it to any condition or regulation. Then, too, Yonge, as a parliamentarian, thought the system was based too much on faith in the government and not enough on statute. In addition, the colonial law of succession, which pro-

34. Yonge to Dundas, private, 29 March 1800, Theal, *Records*, III, 94-100.

35. "Royal Proclamation of October 7, 1763," Adam Shortt and Arthur G. Doughty, eds., *Documents Relating to the Constitutional History of Canada, 1759-1791* (2 vols.; Ottawa: Government Printer, 1918), I, 163-68.

36. Benjamin Horace Hibbard, *A History of the Public Land Policies* (2nd ed.; New York: Peter Smith, 1939), p. 32.

37. A. C. Bradley, *Colonial Americans in Exile* (New York: E. P. Dutton, 1932), pp. 129-58.

38. Yonge to Dundas, 5 Jan. 1801, Theal, *Records*, III, 370, 386.

vided for the equal division of property among heirs, prevented loan farms from becoming estates in the British sense and acted as "a cruel tax on the successor and a cruel bar to all improvement and industry."<sup>39</sup>

Before the governor were a number of applications for land in the Cape district. If he approved them, Yonge said, his government would perpetuate a system destructive to the colony's development; therefore he refused to take action until he could obtain the secretary of state's instructions. Yonge suggested to London that loan-farm tenure be replaced by inheritable leases of twenty-one years in duration, under which all land would be properly surveyed and registered. Holders would be required to cultivate the land, subject to forfeiture. If the government were going to improve the system of land alienation, it should do so now, wrote Yonge to Henry Dundas: "Grants of land are, even now, so pressed for, and the inhabitants are even now throbbing as it were to get lands, that I have thought it expedient to throw the whole under the eyes of the government for its consideration."<sup>40</sup>

While waiting for London's answer, Yonge and Van Ryneveld explored the structure of the colonial administration. Van Ryneveld prepared a proposal, "A Plan for Amending the Interior Police in the Colony of the Cape of Good Hope," which, if implemented, would have strengthened the colonial authority and prepared the way for Yonge's emigration scheme. The fiscal accepted the premise that existing government followed the colonist and could only sanction what was done. To rectify this, Van Ryneveld urged the creation of an annual circuit court and the appointment of eleven deputy landdrosts to assist the three existing officers. The landdrosts and their deputies were to be prohibited from engaging in farming or grazing and were to be paid a yearly salary. The increased cost of the country administration would be met by increased revenue coming from the collection of land rents and arrears. The locations of the new deputy landdrosts would foster the development of more villages in the colony, and thereby promote culture and industry.<sup>41</sup>

39. *Ibid.*, p. 385.

40. *Ibid.*, p. 386.

41. "A Plan for Amending the Interior Police in the Colony of the Cape of Good Hope," 31 Oct. 1801, *ibid.*, IV, 88-96. The fiscal's report was not finished until after the governor left the colony, but it is evident that Van Ryneveld and Yonge discussed the proposals during the early part of 1801. Dundas to Hobart, 12 Dec. 1801, *ibid.*, 113-24.

Before Van Ryneveld's suggestions were formally presented and before London had answered Yonge's call for a reformed land system, the old baronet was removed from the colony, and Major General Francis Dundas resumed the role of acting governor. Dundas, whose personality conflicted with the old man's, reversed almost all of Yonge's policies, and he returned the government to its earlier view that the Cape was an appendage of the Far Eastern world. The general was willing to make only minimum changes in the existing order and postponed any major revisions until after the European war.<sup>42</sup> Dundas, a follower of Macartney and a nephew of Henry Dundas, thus brought a sudden end to Yonge's exploratory schemes.

In the meantime, Lord Hobart, secretary of state for war and the colonies, had considered favorably Yonge's dispatch on the land tenures and recommended the subject to the acting governor:

Sir George Yonge's observations on the Enormous Extent of the Loan Lands and the Evils necessarily resulting from the defects of the System according to which they are at present managed, appear to me to be very just, and however applicable that System might have been in the early periods of the Settlements of the Colony it must now become extremely detrimental to its increasing prosperity. I should therefore be glad to receive from you, as soon as the subject can be completely investigated and examined in all its different bearings, a detailed report and plan for the future Management and Leasing out of these Lands, as you must be sensible that without the Advantage of these Materials, it is impossible to convey any Instructions, or to frame any practical Regulation, either to correct existing Abuses, or to extend and improve this important Branch of the public revenue.<sup>43</sup>

Dundas' reply showed his distaste for Yonge's ideas and his inclination to leave the colony unchanged. In December 1801, he wrote the secretary:

Being ignorant of Sir George Yonge's observations relative to the Loan lands, it is impossible to comply with your desire, in submitting a detailed report and plan founded upon them, in order to correct existing abuses and to assist your Lordship's judgment in forming some more practicable regulations upon that subject. I must confess however I am not aware of any very great evil which results from the supposed defects of the system according to which the Loan Lands are

<sup>42</sup>. Dundas to Macartney, 26 Jan. 1798, Rh. H., Mss. Afr. s. 4 (Rhodes House, Oxford).

<sup>43</sup>. Hobart to Major General Dundas, 1 May 1801, Theal, *Records*, III, 481-82.



at present managed. . . . I do not think it advisable to attempt any material alteration in the established usage, certainly not productive either of inconvenience to the individual inhabitants or disadvantages to the public. The colony is at present so thinly inhabited that there is space sufficient to allow of the inaccurate manner in which the limits of the loan lands are fixed and determined.<sup>44</sup>

Dundas overlooked the practice of squatting in the colony and the real nature of the loan-farm system, and he curtly isolated land reform from administrative reform. The loan-farm tenure was a workable system, but it was not a government-directed system; efforts to improve the strength of government throughout the colony could not succeed as long as the central government was not directing the alienation of land. Dundas did not see this relationship and he brought to an end Yonge's plans for reform.

The acting governor was the last executive in the first period of British occupation of the Cape. In 1803 he surrendered the colony to the officials of the new Batavian republic. He and his predecessors had maintained the governmental structure of the Dutch East India Company and had preserved, virtually unaltered, the Company's land tenure system. But such conservatism is hardly a virtue in a dynamic society with a history of self-devised techniques and codes based on custom. With the exception of Sir George Yonge, whose ideas were never fully developed or tested, the British saw little to recommend and little to condemn in their eight-year governorship of the colony.

44. Dundas to Hobart, 12 Dec. 1801, *ibid.*, IV, 119-20.

### CHAPTER THREE. THE PRELUDE TO THE CRADOCK LAND SYSTEM, 1807-13

WILLIAM PITT, WHO HAD BEEN "INDUCED TO THINK the Cape of Good Hope a more important place than it had been represented" by the ministry in 1802,<sup>1</sup> made the decision in the summer of 1805 to retake the colony. Success came relatively quickly, and by the end of January 1806, Great Britain held the Cape. Pitt died before he could learn of his victory and before he could build upon his strategy. Henry Dundas (now Viscount Melville), who had been more emphatic than Pitt in denouncing the abandonment of the Cape,<sup>2</sup> was no longer in a position to continue "building a great empire of trade throughout the Far East"<sup>3</sup> and to provide governmental systems for the new conquests as he had done in the 1790's. The men who followed Pitt and Dundas to power appreciated the Cape's strategic position in wartime, but they knew too little to hammer out a policy for the colony; indeed, they had even less idea than Pitt and Dundas as to what should be done with the land which lay behind Table Mountain.<sup>4</sup> They retained the Cape in the negotiations of 1814, but from 1806 until the end of the war an uncertainty hung over the British occupation—a feeling that the Cape might be relinquished once more. The occupying power, therefore, felt it had good reason not to make any permanent changes in the colony. Governors were so instructed:

It is our royal will and pleasure that for the present and until our pleasure be further signified the temporary administration of justice and police in the settlement shall as nearly as circumstance will permit be exercised by you in conformity to the laws and institutions that subsisted under the ancient government of the said settlement subject

1. Turner, "The Cape of Good Hope and the Anglo-French Conflict," p. 372.

2. *Ibid.*

3. Harlow, *The Founding of the Second British Empire*, II, 113, 162-65.

4. An exception might be made in the case of Lord Grenville, who, as leader of the "Ministry of All the Talents," had wanted to "inaugurate a vigorous consolidating and anglicising policy at the Cape." However, the cabinet resigned before the first civilian governor took office. Eric A. Walker, ed., *South Africa, Rhodesia and the High Commission Territories*, Vol. VIII of *The Cambridge History of the British Empire* (2nd ed. rev.; Cambridge: Cambridge University Press, 1963), p. 203.



to such alterations regulations and improvements as may have been made during the time the Cape has been in our possession.<sup>5</sup>

It was not unusual to expect Great Britain to preserve "the laws and institutions that subsisted under the ancient government" in the colonies which she conquered during the Napoleonic wars. New colonies for settlement were not wanted. She did not expect her subjects at home to flock to the new territories, and thus there was no need to jeopardize the tranquillity in the new colonies by altering existing social situations in order to make room for her own nationals. English institutions and concepts need not necessarily be transferred to the new possessions. "The only important change which was to take place at once was the organization of a customs service on the model of the older colonies, which should collect the usual duties on trade and enforce the navigation acts."<sup>6</sup> The Cape was accorded its place in the empire of trade; its possession by Great Britain reaffirmed London's intention to be the paramount European power in the East. Even after its future ownership had been decided upon, London was not inclined to expand its vision of the colony. Immigration, which began to receive governmental attention at the end of the war, was given no official encouragement to the Cape until in 1819 the cabinet adopted the Albany settlement scheme, which had its birth in the frontier squabbles of the colony rather than in a change in London's assigned role for the Cape.<sup>7</sup> The failure of the scheme and its heavy cost reinforced London's view that the colony had but one value: its geographical position.

The embryonic system of imperial supervision at the beginning of the nineteenth century made it difficult for London to know and to respond to the conditions which existed in the colonies. A commitment to the status quo was reflected not only in Britain's deliberate planning for most of her new colonies but also in the arrangements which existed between governors and secretaries of state. It is a convenience for the historian to see 1801 as the beginning of the colonial secretary's office with the transfer of

5. Instructions to DuPre Alexander, Earl of Caledon, 1 Aug. 1806, and Instructions to Sir John Francis Cradock, 10 April 1811, Theal, *Records*, VI, 6, and VIII, 31.

6. Manning, *British Colonial Government after the American Revolution*, pp. 343-44. See also Murray, *The West Indies and the Development of Colonial Government*, pp. 51-56.

7. Isobel Eirlys Edwards, *The 1820 Settlers in South Africa* (London: Longmans, Green, 1934), pp. 39-45.

colonial business from the Home Office to the department of the Secretary of State for War and the Colonies. However, it appears that not until years later did the transfer result in any appreciable improvement in London's conduct of colonial affairs.<sup>8</sup> The third secretaries had to be first in war, and, as many historians have already pointed out, it was not until 1812 or after that a new and distinct administration was to be developed for overseeing colonial business.<sup>9</sup> Governors were provided with a set of instructions and a portrait of the monarch, but their most important gift from the secretary of state was the trust placed in them to rule as they thought best. "Most Governors understood that the responsibility for the government of their colony rested with themselves and the colonists."<sup>10</sup> London had neither the inclination nor the equipment to probe deeply into the character of its governors or into the affairs of its colonists. In advising his successor in 1812 on what to do with the dispatches from governors, Robert Peel, undersecretary in the third secretary's office, wrote: "there is no occasion in most cases for immediate decision and in many it does not much signify if it is deferred for some time."<sup>11</sup> Still, governors were not expected to exceed the limits of propriety; they were expected to rule and not to innovate.

Although Britain might not have encouraged change in the governmental system of the Cape even if she had committed herself to the retention of the colony at an early date, it was nonetheless true that the doubt cast on the future ownership affected the thinking of London and its governors. This doubt was expressed in the policies which were sanctioned during the war years, and even after the need for caution had been removed the policies often were carried over into the postwar world. Reform was to come late to the colony; in the meantime, governors were instructed to administer wisely and to maintain the standard of Macartney's earlier conservatism.

8. However, this is not to deny that "in the course of the war the work done in the Third Secretary's Office in relation to the colonies increased both in amount and scope." Murray, *The West Indies and the Development of Colonial Government*, p. 110.

9. For example, see J. C. Beaglehole, "The Colonial Office, 1782-1854," *Historical Studies: Australia and New Zealand*, I (April 1941), 179; D. M. Young, *The Colonial Office in the Early Nineteenth Century* (London: Longmans, Green, 1961), pp. 13-17; R. B. Pugh, "The Colonial Office, 1801-1925," chap. xix in *The Empire Commonwealth, 1870-1919*, Vol. III of the *C.H.B.E.*, pp. 711-12.

10. Murray, *The West Indies and the Development of Colonial Government*, p. 33.

11. Peel to Goulburn, 12 Aug. 1812, quoted in *ibid.*, p. 32.

The executives selected to head the temporary government found it difficult to obey London's directive. The first governor, DuPre Alexander, second earl of Caledon,<sup>12</sup> fell heir to the multitude of reforms framed but not implemented by the short-lived Batavian regime. Caledon, too, was a systematic but cautious administrator, who perhaps had too much sympathy for the letter of the law and the rights of government to be a forceful, creative governor. His successor in 1811 was Sir John Francis Cradock,<sup>13</sup> a more intense individual who was as dogmatic in his decisions as Caledon was hesitant in his. Caledon, reluctant to commit his government to any one principle which might jeopardize its freedom of action at a later date, gathered information, experimented with the existing tenures, and realized that the land alienation system had to be improved if the Cape was to enjoy better government. Cradock, basing his actions on those taken by Caledon but ignoring colonial conditions, saw land reform as a part of a greater project—the remaking of the colony into a permanent British possession. Neither man was content with maintaining the status quo.

I. ALTHOUGH THE COLONY EASILY SLIPPED BACK under British rule, the administrative character of the Cape was not quite the same as it had been in 1803. The Netherlands' Council for the Asiatic Possessions had replaced the bankrupt Dutch East India Company as the imperial arm of the small European state. Jacob Abraham de Mist, a member of the council and a moderate reformer in the Napoleonic republic, had been appointed commissary-general and spent eighteen months at the Cape introducing the more enlightened ideas of revolutionary Europe.<sup>14</sup> He and the governor, Jan Willem Janssens, attempted

12. Caledon, governor from 1807 to 1811, was one of the representative peers of Ireland. His selection for the governorship has been credited to the government's need for "his political influence at a forthcoming election in the County of Tyrone." *C.H.B.E.*, III (1963 ed.), 202-3.

13. Cradock, governor from 1811 to 1814, had served as governor of Gibraltar before coming to the Cape. Prior to assuming civil duties, Cradock had had a successful military career. In 1819 he was created Lord Howden in the Irish peerage.

14. De Mist as a product of the Enlightenment is the subject of a recent, commendable monograph (A. H. Murray, *The Political Philosophy of J. A. de Mist*, [Cape Town: Haum, n.d.]).

to proclaim a new order.<sup>15</sup> The large districts of the colony were slightly reduced in size by the creation of two new districts, Tulbagh and Uitenhage, but the benefit was curtailed by the addition of new territory to the colony on the north and northeast. The districts were still too large, and in spite of later subdivisions (in 1826 there were eleven districts), the situation remained virtually the same. De Mist, recodifying the instructions for landdrosts and field cornets, asked the country officials

to observe, that in proportion as the population increases, the necessity also increases to restrain all the Places within their Boundaries, and to take care, that from all the ground still at the disposal of Government, the most possible profit be derived, and that consequently the strictest regularity be observed, as well in the granting of Land as in the cultivation of the same.<sup>16</sup>

De Mist and the governor toured the colony and came to the conclusion that its future expansion could be regularized "by the order in which the concession of Lands, and the division thereof was made."<sup>17</sup> As a measure to improve the colony's market economy, De Mist was willing to change loan-farm tenure into freehold, hoping that the improved legal security would produce a more industrious development of the farms. A commission for this purpose was created in 1805, but the program was scrapped when Van Ryneveld and others protested against the surrendering of the government's rights to the land.<sup>18</sup>

15. A short but excellent summation of the Batavian administration is found in Walker, *A History of Southern Africa*, pp. 133-38. Spilhaus gives attention to the relations between Janssens and De Mist and deals with the implications of their reforms. She concludes, "Had the Batavian Government continued to administer the Cape Colony the 'Great Trek' would have taken place a generation earlier." *South Africa in the Making*, pp. 311-94.

16. Truter to Bird, 28 June 1811, enclosure in Cradock to Liverpool, dispatch 15, 4 March 1812, C.O. 48/13 (P.R.O.).

17. Abstract and translation from "The Proceedings of the Governor and Council at the Cape of Good Hope on Saturday, the 29th of December 1802," C.O. 2 (Cape). Reports on Janssens' visit into the interior are available in W. Blommaert and J. A. Wiid, eds., *Die Joernal van Dirk Gysbert van Reenan, 1803*, trans. J. L. M. Franken and Ian M. Murray (Cape Town: Van Riebeeck Society, 1937), and W. J. de Kock, ed., *Reize in de Binnen-landen van Zuid-Afrika: Gedaan in den Jaare 1803 door W. B. E. Paravicini di Capelli, Kapitein aide de camp, by den Gouverneur van de Caap de Goede Hoop* (Cape Town: Van Riebeeck Society, 1965). A report on De Mist's journey is available in George McCall Theal, ed., *Belangrijke Historische Dokumenten over Zuid-Afrika Verzameld in Den Haag en Berlijn* (3 vols.; Cape Town: Government Printer, 1896-1911), III, 121-87.

18. Baumgardt to Bird, 23 Nov. 1810, enclosure in Cradock to Liverpool, dispatch 15, 4 March 1812, C.O. 48/13 (P.R.O.); Caledon to Castlereagh, dispatch 73, 16 Oct. 1809, C.O. 48/4 (P.R.O.).



The Batavian government's readiness to innovate was based on the hope that time and administrative initiative would turn the poor, underdeveloped, and isolated possession into a valuable holding within the Dutch mercantile system.<sup>19</sup> Their plan was destroyed and their paper reforms came to an end when the British fleet appeared in Table Bay in January 1806. It would be some time before another administration would become stimulated by such a vision.

Once again the British kept most of the Dutch servants at their posts and restored Van Ryneveld to his place as the chief liaison between the Dutch-speaking officeholders and the English executive.<sup>20</sup> A handful of half-pay English officers were given the top appointments. The hybrid administration, which continued into the 1830's, produced a little-noticed limitation on Great Britain's capacity to understand the colony. Because of the language problem and the isolation of the country officials from the Cape Town-based government, the administration had difficulty in communicating with itself. Since shortly after their arrival in 1806, the British had asked that English translations accompany all correspondence with the government in order to eliminate "the delays and inconvenience that frequently occurs [*sic*] in the dispatch of the public business."<sup>21</sup> It would be a long time, however, before the chief offices of government would conduct their business in a single language. Translators were necessary within the administration, but it was almost impossible to find competent bilingual civil servants. The Cape colonial secretary's office was the most important in the government: it was the receiver and dispatcher of all communications with the governor from other offices and from individuals. Yet the secretary reported as late as 1827 that some of the ten clerks in his office could "copy well but don't understand English" and that the rest were "so useless that . . . I can get no one [*else*] to take them." Even his chief clerk did not know "the English language enough to write a letter or correct one when copied."<sup>22</sup> Few of the English officials

19. Pensionary Schimmelpenninck to Lt. Gen. Janssens, [June] 1805, Theal, *Records*, VI, 150-51.

20. Cape Town *Government Gazette*, 5 April 1806; Van Ryneveld's correspondence with governors, C.O. 2 (Cape).

21. Cape Town *Government Gazette*, 17 May 1806.

22. Plasket to Hay, 26 Feb. 1827, Theal, *Records*, XXI, 60; also see Bourke to Bathurst, 30 May 1826, *ibid.*, XXVI, 408.

learned Dutch or spoke the Cape dialect. The language difficulty, which was capable of being resolved in time, was illustrative of a deeper cleavage in the government.<sup>23</sup> Few governors found the energy to leave the capital except in times of a crisis on the frontier or to call for advice from qualified colonials or country officials. In their day-to-day dealings, contact between government offices and between Cape Town and the interior was often at a minimum.

Shortly after his arrival, Caledon began to interfere in the existing land alienation system. His actions were chiefly pragmatic. His reforms were not all-inclusive nor were they intended to be revolutionary; they were silent ones, designed to bring about greater order. It might be said that they were steps on the way to the acquirement of a better knowledge of the colony, although he often failed to submit to London the information he acquired.<sup>24</sup> One of Caledon's first acts was to insist that his officers not recognize "the right of any individual to landed property unless a cession of it by a formal grant or deed of the same had been made."<sup>25</sup> The order was intended to dispose of the many verbal promises made by earlier administrations and thereby reduce the pressure on the governor's office. The regulation did not affect loan farms unless a dispute over occupancy was brought into court and recourse had to be made to the opgaaf rolls, where supposedly all loan farms were recorded.<sup>26</sup>

Next, the governor stipulated that applications addressed to him for land had to be in English or accompanied by an English translation. He also ordered the colonial secretary to prepare all titles in both English and Dutch as a convenience for the government.<sup>27</sup> He did not make any changes in the mode of application

23. A detailed survey on the operation of the government is available in "Report of the Commissioners of Inquiry upon the Administration," 6 Sept. 1826, *ibid.*, XXVII, 342-97.

24. Caledon tended to stress the "uneventfulness" of his command in his dispatches home. Often he wrote a variation of the following: "Nothing has lately occurred [*sic*] in this colony upon which I feel it necessary to request Your Lordship's attention." (Caledon to Castlereagh, dispatch 71, 18 Sept. 1809, C.O. 48/4 [P.R.O.]; Caledon to Liverpool, dispatch 78, 20 Jan. 1810, C.O. 48/7 [P.R.O.].) His frequent but often unenlightening letters to Castlereagh may have been due to the secretary's own complacent attitude on British rule at the Cape. (*C.H.B.E.*, III, [1963 ed.] 203.)

25. Caledon to Castlereagh, 3 Nov. 1809, C.O. 48/5 (P.R.O.).

26. Some loan places had been registered in the wrong landdrost books, and probably some were never recorded, although rents were paid for them. Baumgardt to Caledon, 20 Aug. 1807, C.O. 8 (Cape).

27. *Report of the Surveyor-General on Land Tenure*, p. 21.



for land. Requests for land were either sent through the landdrost to the governor or were made directly to the chief executive. The memorials were then returned to the landdrost and board of heemraden, who made a personal inspection of the ground, chiefly to safeguard the rights of existing holders. Once the local report had been received and approved by the governor, the grant or lease was recorded in both the colonial secretary's office and the landdrost's office.<sup>28</sup> Delay was an inherent part of the system, but as long as there was no prohibition against occupying the land before its official transfer, little harm was done.

Slowly Caledon began to limit the tenures in use. In 1807 he refused to allow grants to be made in loan freehold and thus brought to an end the transfer system that allowed a loan-place holder to obtain sixty morgen of his land in a firmer tenure. Caledon's reasons were quite simple and reflected Van Ryneveld's influence on the governor: the annual recognition fee of twenty-four rixdollars for the sixty-morgen tract did not take into account the quality of the land; any such uniform rent system was unjust to both the possessor and the government. Loan freehold was also detrimental as it resulted in the loss of the government's right to resume the land.<sup>29</sup> The decision affected only a few colonists, and evidently Caledon did not feel it necessary to publish his decision in the colony or to inform London of it until 1809.

In 1808, Caledon became wary of making any grants in freehold, as he came to the conclusion that it would be imprudent to grant or sell property until he became more familiar with the colony.<sup>30</sup> His unpublished ban pertained only to a minority of the colonists who had been accustomed to receiving freehold grants in or near the urban centers of the colony. There is also strong evidence that the governor ceased, or at least slowed down, the issuance of loan-place leases in 1809,<sup>31</sup> and action in this quarter

28. Caledon to Castlereagh, dispatch 73, 16 Oct. 1809, C.O. 48/4 (P.R.O.).

29. *Ibid.*

30. *Ibid.*

31. See his ambiguous and rambling dispatch to Castlereagh, *ibid.* The number of loan farms held by the colonists varied from year to year because of abandonment and the holders' failure to renew the annual leases by appearing before the landdrost and heemraden. On the whole the annual returns transmitted to London showed a yearly increase of one hundred farms, but in 1809 and 1810, an increase of only thirty-three was reported. (See "Abstract of the Accounts of His Majesty's Receiver General at the Cape of Good Hope" for 1808, Theal, *Records*, VI, 443; for 1809, VII, 240; and for 1810, VII, 478.) Since the real authority in the issuance of loan-farm leases was the landdrost, action by the governor in limiting the loan-farm

affected the whole colony. Once more Caledon evidently did not inform the colony of his policy, and applications continued to be made for all classes of land. By the end of 1811, more than three hundred requests for loan farms and 150 petitions for quitrent grants were on file.<sup>32</sup>

The most acceptable tenure to Caledon was fifteen-year quitrent, and he informed London that he preferred to use it whenever possible. Rents under this tenure were assessed on the worth of the land; they were not uniform and, therefore, Caledon argued, they were fair to both the grantee and the government. Since the land was resumable at the termination of the lease, government also preserved its freedom to act at a later date.<sup>33</sup> Unlike the earlier quitrent grants, which were only registered, Caledon's new quitrent grants had to be surveyed, diagramed, and recorded. The new emphasis on survey was a product of a mind which sought order and unity. Unfortunately, the governor did not see that in order for surveying to be a science it must be based on a standard unit of measure and it must be practiced by competent individuals, and both a standard measure and competent surveyors were lacking.

From 1685, when the first survey was made in Cape Town, until 1800, only 29,612 morgen of ground had been surveyed in the entire colony. The surveys undertaken and the diagrams prepared were often so poorly done as to be worthless. No standard unit of measure had been framed by the government; each surveyor (and few were properly trained) devised his own, and the length of his chains was never tested.<sup>34</sup> Surveyors called to settle a boundary dispute could not rely on the diagrams prepared by their predecessors. Instead, they had to search for beacons, lines of cultivation, or cuts in the earth, and they had to rely on oral testimony in order to ascertain the proper limits of the plots.<sup>35</sup>

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tenure might not be respected or immediately enforced. The failure of the governor to publish any of his decisions concerning land adds a degree of uncertainty to his course of action. Since he did object to a uniform rent for land, he left behind a backlog of applications for loan places. One may surmise that he either ceased to make new grants in loan tenure or at least made very few.

32. Marginal note on confidential letter, Cradock to Alexander, 6 Dec. 1811, enclosure in Cradock to Liverpool, dispatch 15, 4 March 1812, C.O. 48/13 (P.R.O.).

33. Caledon to Castlereagh, dispatch 73, 16 Oct. 1809, C.O. 48/4 (P.R.O.).

34. Cape of Good Hope, *Report of the Commissioners Appointed for the Purpose of Determining the Unit of Land Measure*, pp. 4-5 and Appendix A.

35. J. W. Wernick to Alexander, 10 May 1813, C.O. 53 (Cape).

Caledon did not investigate the surveying system; he assumed it was operable. His one recommendation (in addition to his stipulation that quitrent lands be surveyed) was that the costs of surveying should be kept as low as possible.<sup>36</sup> Yet even under Caledon's watchful eye, the expenses of survey could be exorbitant. The few sworn surveyors in the colony, usually stationed in Cape Town, had to travel days to reach their assignments and were entitled to compensation for their travel time from the applicant. Then, too, stamp duties had to be paid on the diagram and the title. One farmer was charged 294 rixdollars, plus stamp duties, for the surveying and diagraming of part of his loan place, on which he paid twenty-four rixdollars annually. A large part of the bill was for the seven days it took the sworn surveyor to reach the farm.<sup>37</sup> Thus the money spent for survey was a drain on the Boers' capital, and until the standards of the surveyors and surveys were raised the money might be wasted. The increased number of diagrams attached to deeds in the colonial secretary's office during Caledon's governorship had no permanent value.

The governor did not devote any attention to the problem of squatting; yet he was told on at least one occasion that there were not enough loan farms in the colony and that some Boers were wandering with their herds in search of new land<sup>38</sup>—but Caledon's view of the colony was from Cape Town. Since squatting had no legal base, the governor would have no contact with the Boers' own system unless he called for reports on the land tenures or unless he ventured around Table Mountain. But Caledon's restrictions on other land tenures would act as a stimulant to the further employment of squatting. His pragmatic and fragmented approach to land reform was in itself a limitation on his reforms.

Caledon's experimentation and his concern for a more orderly and equitable land code resulted in his appeal to the Colonial Office in 1809 for instructions on the future disposal of land. The governor used his reply to a request from the Board of Trade for information on the sources of revenue in the colony as the vehicle

36. Marginal note, Baumgardt to Bird, 16 and 23 July 1808, C.O. 13 (Cape).

37. Baumgardt to Bird, 20 May 1808, *ibid.* The schedule of fees chargeable was issued in the *Cape Town Government Gazette*, 26 Dec. 1807.

38. Colonel Richard Collins, "Journal of a Tour to the North-Eastern Boundary, the Orange River, and the Storm Mountains in 1809," Moodie, *The Record*, V, 26.

to give London some insight into the problems he faced as executor of the colony's lands. In his report the governor devoted considerable space to an account of the income derived from land, the mode of granting land, and the powers possessed by government in the tenures. He illustrated his current policy of granting lands on quitrent as one worthy of extension and regularization. The fixing of rent according to the quality of the soil constituted his major recommendation.<sup>39</sup> London reacted slowly to Caledon's request, not framing a reply until 1811.<sup>40</sup>

While waiting for the Privy Council's answer, Caledon continued to administer the land tenures according to his conscience, which became greatly troubled in 1810 over the rights claimed by landholders. An appeal had been made to the governor by the executors of a loan freehold estate, asking for a confirmation of the custom of using adjacent land as free pasturage.<sup>41</sup> The case raised the whole subject of the rights of government and of holders in the existing land tenures. The governor asked the receiver of land revenue for an opinion, but his reply was unacceptable to Caledon, since he was inclined to sanction custom.<sup>42</sup> Caledon turned to others in the administration, but their replies were so tardy that the question was left for Caledon's successor.

Evidently, in order to avoid committing his successor to any one land policy, Caledon stopped the issuing of quitrent grants in June 1811.<sup>43</sup> Thus, from 1807 to his departure in 1811, Caledon had limited every existing tenure in the colony and had abolished the further use of two—loan freehold and fifteen-year quitrent. He had increased the application of survey in the colony; he had collected information on the nature of the rights inherent in the Cape's land systems; and he had drawn London's attention to the need for change. Through his term of office the governor had increasingly discovered that the existing systems of land alienation were defective in regard to defining the government's powers. Although his actions had a negative effect on the land alienation system, he did raise to the level of exploration the Cape's adminis-

39. Caledon to Castlereagh, dispatch 73, 16 Oct. 1809, C.O. 48/4 (P.R.O.).

40. Office of Committee of Privy Council for Trade to Peel, 22 March 1811, C.O. 48/11 (P.R.O.).

41. Bird to Truter, 21 Dec. 1810, enclosure in Cradock to Liverpool, dispatch 15, 4 March 1812, C.O. 48/13 (P.R.O.).

42. Baumgardt to Bird, 23 Nov. 1810, *ibid.*

43. *Report of the Surveyor-General on Land Tenure*, p. 21.



trative system. If a successor were to build on his actions, the restrictive aspects of Caledon's land policy might be overcome.

II. SIR JOHN FRANCIS CRADOCK, THE NEW GOVERNOR, assumed his duties in September 1811. He was a professional soldier, and perhaps his experiences in suppressing rebellions in Ireland and Madras and in campaigning in Egypt and the West Indies had led him to the belief on which he was to base his rule of the Cape: British institutions could readily transform any underdeveloped European possession into a prosperous, valuable, and orderly colony. Equally impressed with the strides being made in English agriculture (later in life he was to run a model farm in England), Cradock found in a reform of the colony's land codes an opportunity to apply his theories.

Prior to his departure from England, Cradock received the report from the Board of Trade concerning Caledon's comments on the land tenures. The board agreed that some action should be taken to correct faults in the existing laws, but it pointed out that the Cape was not a part of the British Empire. Britain's occupation was a wartime measure, and the colony's future ownership would have to be settled by treaty. Until this was done, Britain had to abide by her interpretation of international law which prohibited the enforcement of any policy that might curtail the future income or prerogatives of the government. Thus, a right of resumption had to be included in any land-granting system. Freehold tenure could not be introduced. The Cape's fifteen-year quitrent tenure as applied by Caledon and loan-place tenure would meet the condition, but the governor was asked to suggest any new course of action that could be taken to improve the land system without violating the law.<sup>44</sup>

In acknowledging receipt of the board's report, Cradock replied that he would need time to devise a suitable land system, but he hoped any reform would contain "some of the valuable Institutions of England."<sup>45</sup> Actually, it did not take Cradock long to formulate a new program. To him the most significant point in

44. Office of Committee of Privy Council for Trade to Peel, 22 March 1811, C.O. 48/11 (P.R.O.).

45. Cradock to Liverpool, 15 Oct. 1811, C.O. 48/9 (P.R.O.).



the board's statement was the uncertainty cast on the retention of the Cape. There was no question in his mind that British control could be of advantage to both crown and Boer. If England pulled out, France would move in and command an increasingly important station that opened on the East and on Latin America.<sup>46</sup> For the Cape, enlightened British rule would allow the colony to "take its rank with other countries."<sup>47</sup> If the Boers could be convinced that "it is to England alone they are to direct their views . . . ,"<sup>48</sup> they would insist upon the continuance of British control, and, no doubt, Britain would keep the colony.

I therefore anxiously hope . . . there will appear the Desire to assimilate the Institutions of this Country to those of England, as I conceive that a prudent Introduction of every British principle and Practice besides an allowable Confidence in their Excellence, forms precisely so many steps toward the Attainment of Belief [in an] inseparable English Connection.<sup>49</sup>

There was in Cradock's decision the shadow of Sir George Yonge, but the former governor in his plan to anglicize the Cape had never been as determined or as anxious as Cradock was in 1811.

Having clarified his objective, the governor hurried into a program to make the Boers into devoted subjects of the crown. The first step was to limit the circulation of the board's remarks. Only the Cape's colonial secretary and deputy colonial secretary, two trustworthy English officers, were to know that there was any "doubtful reasoning upon the permanency of the British Dominion over this Territory."<sup>50</sup> The three were to insure "that no Act should lead to strengthen any Opinion that they can ever return to the Dominion of their old Masters."<sup>51</sup>

The next step was to devise an attractive land alienation system that would unite crown and colonist in the pursuit of common goals. The governor and his two aides began to debate in secret. Only later would others in the administration be consulted for the working out of the details of the new law. Cradock already knew

46. *Ibid.*, dispatch 15, 4 March 1812, C.O. 48/13 (P.R.O.); Alexander to Cradock, 13 Jan. 1812, enclosure in *ibid.*

47. Cape Town *Government Gazette*, 6 Aug. 1813.

48. Cradock to Alexander, 6 Dec. 1811, enclosure in Cradock to Liverpool, 4 March 1812.

49. *Ibid.*

50. Cradock to Liverpool, *ibid.*

51. Cradock to Alexander, 6 Dec. 1811, enclosure in *ibid.*

what he wanted: if international law prevented the granting of land in freehold, the Boer would be given the legal security of possession Cradock thought he needed through a system of perpetual quitrent, with an annual rent based on the quality of the land. Much more was implied in the perpetual quitrent principle than a new way to alienate land and to increase the revenue of the crown. The Boer as a tenant of the state would identify himself with the interests of a paternal government:

In short, while we pursue the Interests of the Crown & Augment the Revenue, I should wish, that every Proprietor of Land should look upon it as his own Estate, as a Provision for himself and Family and that no future event can injure him, or render it unproductive, but the want of Industry, or his own Mismanagement. This is the Situation of England and how abundantly it is proved.<sup>52</sup>

He turned to the correspondence on land left by Caledon and saw that his new tenure might settle the question of government's rights in the existing land system. Loan-place tenure would be brought to an end by allowing the holders to convert their farms into formal quitrent estates. All existing and future grants would be properly delineated and recorded; illegal occupation of land would be prohibited.<sup>53</sup> Custom would be eliminated from the colony's legal system, since the new land code would "leave as little as possible to the operation of chance or accident."<sup>54</sup>

In one respect, however, the governor did not go beyond what was to become the traditional view of land policy at the Cape. He was providing an economic and social reform for the Europeans in the colony, but no thought was given to the land needs of the non-European. No link was forged between the distribution of land and the problems of a population residing upon the land. Cradock seemed to accept the prevailing opinion that Caledon's Hottentot code of 1809, which limited the mobility of the Hottentot while improving his legal position as a laborer, prohibited the granting of land to any but the European.<sup>55</sup> He showed an interest

52. *Ibid.*

53. Cape Town *Government Gazette*, 16 Oct. 1812.

54. Cradock to Alexander, 6 Dec. 1811, enclosure in Cradock to Liverpool, 4 March 1812.

55. "Report of J. T. Bigge, Esquire, upon the Hottentot and Bushman Population of the Cape of Good Hope and of the Missionary Institutions," 28 Jan. 1830, Theal, *Records*, XXXV, 312-13.

in the activities of the missionaries and their mission stations for the Hottentots, but he did not explore the economic needs of this large group nor did he include the non-European as a major contributor to his remaking of the colony. Earlier, Governor Caledon had confirmed some land grants to Hottentots, and Governor Somerset was later to do the same, but all of the early British governors tended to see the missionary as the proper guardian for the Hottentot and Bastaard. Although they sometimes questioned the judgment of these guardians, the governors showed little inclination to assume their responsibility and to include the position and treatment of the non-European in the day-to-day affairs of the administration.

By early January 1812, Cradock was convinced that his perpetual quitrent principles fitted the conditions of the Cape, but his view was based on a superficial examination of the problem. This was not corrected when he turned to the fiscal and the president of the court of justice for their opinions. All of the advisers he used were Cape Townians dependent upon the same sources of information—the incomplete, informal records of the old East India Company and the remarks of earlier officials. Only the fiscal and the president of the court could read Dutch. The governor had yet to travel beyond Cape Town, and no one in the districts was consulted. Under such conditions, it was impossible for Cradock to have an accurate picture of the colonists' current land practices or needs.

Then, too, he was not without his own prejudices. The governor wanted to help the man of "exertion and industry" but tended to assume that such a man was the anglicized Boer.<sup>56</sup> He had a generally low opinion of the pastoralist. He told his subordinates that "to encourage grazing and an indolent easy Life in the Individual is not the public object of His Excellency, but

56. In 1812 an English merchant fell from his horse near a Boer's farm on the outskirts of Cape Town. The accident happened late at night. Although the merchant walked into the house, he asked for someone to fetch a doctor for his injured back. All of the Boer's family and his slaves were summoned by the farmer to listen to the merchant. Obviously none could understand English, and the merchant was put to bed. On his return to Cape Town, the merchant complained to Governor Cradock, and the farmer, who had two requests for land on file in the colonial secretary's office, was told by the governor that he would not receive his land because of his "inhuman behavior to an English Gentleman." Henry Buckton to Henry Alexander and marginal notes, 20 Feb. 1812, C.O. 38 (Cape).

progressive Civilization, agricultural improvement and common defence."<sup>57</sup> He did not see that much of the colony, remote from markets and a money economy, was a society of graziers which could ill afford to improve and to build up farms in the European sense. While Cradock was preparing his new code, the first commission of circuit of the court of justice reported that in the eastern districts

All the Young People, of which many of the houses are full, have no other prospect, than the breeding of Cattle and to obtain Places for that purpose nothing else is heard of, than of forcing in between other places, or clear ground and good pasturage over the Great Fisch River, and consequently a common inclination to settle themselves beyond the Limits in case they could obtain permission thereto.

There is in fact, no other way or prospect for the Young People, than the easy livelihood of breeding of Cattle.<sup>58</sup>

Cradock presented his land-reform program to Lord Liverpool in March 1812. Once again the Board of Trade was consulted, and it restated its earlier view that no permanent disposal of land could be made. However, it did give the governor permission to implement perpetual quitrent tenure. Much to Cradock's disgust, the board reminded him that it was not yet time to consider the Cape a permanent British possession.<sup>59</sup>

Confident that London would approve his plan and eager to begin his reconstruction of the Cape, Cradock did not wait for London's answer before he informed the colony, in a proclamation of October 1812, that he would grant land only in perpetual quitrent.<sup>60</sup> Even before making this announcement, he had made a few grants in perpetual quitrent, three of which were dated as early as January 1812, at the time when he was seeking advice from his officers on what the new tenure should be.<sup>61</sup> All of the provisions of the new system were made known to the public in July and August 1813, and Cradock's plan became the official law.<sup>62</sup>

57. Alexander to Lt. Col. Graham, 23 May 1812, enclosure 4 in Cradock to Liverpool, dispatch 24, 10 June 1812, C.O. 48/14 (P.R.O.).

58. "Report of the Commission of Circuit to His Excellency Lieutenant General Sir John Francis Cradock," 28 Feb. 1812, enclosure in Cradock to Liverpool, dispatch 22, 21 May 1812, C.O. 48/13 (P.R.O.).

59. Office of the Committee of Privy Council for Trade to Goulburn, 30 Sept. 1812, C.O. 48/16 (P.R.O.).

60. Cape Town *Government Gazette*, 16 Oct. 1812.

61. *Report of the Surveyor-General on Land Tenure*, p. 21.

62. Cape Town *Government Gazette*, 17 July, 6 Aug. 1813.

No land was to be sold. No new land was to be given in loan-farm tenure, although existing loan places would be continued. All future grants were to be in perpetual quitrent. The maximum annual rent for any plot, regardless of size, was not to exceed 250 rixdollars (about £50), and the rent was to be based on the quality and location of the land. In each title was to be a clause requiring the holder to cultivate "as much acreage as possible in the grant" by the end of three years and prohibiting the grantee from transferring the property during the same period. Each grant was to be properly surveyed and diagramed, and the holder was to be given an official deed. Holders of loan farms were to be encouraged to convert their leases into perpetual quitrent titles, and in exchange for the new security awarded them the owners of converted places were to pay an assessed rent on the land's worth and comply with the regulations for new grants. Initially the period for conversion was to be limited to twelve months, but the time period was extended indefinitely<sup>63</sup> because of poor response. To encourage the loan-place holders to convert their farms into the new tenure, Cradock prohibited them from occupying new land until they had converted their farms to quitrent tenure. Converted places were not to exceed three thousand morgen, and there was the implication that no new grants should exceed this limit.

The reformed land system was accompanied by a number of other policies designed to keep the Cape under the Cross of St. George. The governor wanted to encourage British emigration and capital, but, as he was told by the Board of Trade, he would have to wait until the war was over.<sup>64</sup> In the meantime, the Cape had to become more understandable to the Briton. Cradock launched the Bible and School Committee Fund to expand the English-oriented educational opportunities in the colony, and he asked the Prince Regent to contribute ten thousand rixdollars to it.<sup>65</sup> In 1813 he urged the youth of the colony to learn the English language:

His Excellency well knows, that the thanks of those young persons will soon be due to him, when they shall find the advantage of this

63. *Ibid.*, 23 Dec. 1814.

64. Office of the Committee of Privy Council for Trade to Goulburn, 30 Sept. 1812, C.O. 48/16 (P.R.O.).

65. Cradock to Bathurst, dispatch 60, 16 Aug. 1813, C.O. 48/17 (P.R.O.).



ordination, not only in its immediate Benefits in the transaction of the various Business connected with Government within this Colony, but in it not leaving them confined to the Boundaries of the Cape of Good Hope, as it will enable them to enlarge the Sphere of their talent and activity, and pursue one common course with all his Majesty's subjects throughout his Dominions.<sup>65</sup>

In 1814 he introduced a more uniform taxation system that was to provide a more regular income for the crown and thus increase the government's ability to undertake beneficial works for the colony.<sup>67</sup> He also wanted to replace the "inadequate and inferior" system of Roman-Dutch law and to introduce English law wherever possible.<sup>68</sup> Before any of his plans were implemented or his land law tested, Cradock wishfully painted a picture of what the future held for *British* South Africa:

I am persuaded that a new order of things will Soon arise in all those distant parts. The frequent and daily access is established. The knowledge of all that passes is secured. The Magistrates and Clergymen have been instructed to promote in the most zealous and lively manner, the various objects of their revered and sacred functions. The doors of the Churches . . . have been thrown open to all description of His Majesty's Subjects, and new Churches have been directed; and a general System of Education, "whenever practicable" has been established throughout the Districts. An Influx of active and circulating money, hitherto unknown is promoted by the temporary<sup>69</sup> residence of Troops, and all Arts and Comforts of Civilization advanced by the Example of the Officers and other enlightened Strangers who will resort to these new Establishments.<sup>70</sup>

One could hardly expect Cradock's view to become a reality; but his new land system was needed by the colonists, not because it fitted the circumstances of the colony, but because Caledon and Cradock had responded so slowly to the numerous requests for land on file. Caledon had not acted upon several hundred claims for land, and his successor, busy with framing the new law, had been slow to make any grants. By 1813 there were three thousand requests in the colonial secretary's office.<sup>71</sup> Prompt

66. Cape Town *Government Gazette*, 20 Feb. 1813.

67. Cradock to Bathurst, dispatch 76, 5 April 1814, C.O. 48/22 (P.R.O.).

68. *Ibid.*, dispatch 50, 3 May 1813, C.O. 48/17 (P.R.O.).

69. The word "permanent" had been written first, but was later crossed out and the word "temporary" written above it.

70. Cradock to Colonel Vicars, 14 Nov. 1812, enclosure in Cradock to Bathurst, dispatch 39, 18 Nov. 1812, C.O. 48/14 (P.R.O.).

71. Cradock to Bathurst, dispatch 62, 23 Aug. 1813, C.O. 48/17 (P.R.O.).

action had to be taken to grant the land under some kind of tenure if the government was to achieve its goal as the dispenser and controller of the colonial lands.

Governor Cradock firmly committed the government to a new principle of land alienation, something his predecessor was unwilling to do. Both he and the Earl of Caledon had elevated land policy to a position heretofore unknown in the British administration of the Cape. Caledon had explored it as a way to improve the conditions in the colony; Cradock had reformed it as a way to keep the colony in the Empire. Now, in 1813, fundamental to each goal was the speedy and effective administration of the new law.

## CHAPTER FOUR. THE ADMINISTRATION OF THE CRADOCK LAND SYSTEM, 1813-28

IN HIS HASTE TO ANGLICIZE THE COLONY THROUGH a magnanimous reform in land alienation, Cradock overlooked the need to provide adequate machinery so that the colonists could come under the system. His successors, untroubled by any urgency to change the character of the colony, found no reason to improve or even to oversee the method of distributing land. From 1813 until 1828, when the Cradock laws were modified, land policy suffered from an almost total neglect by the Cape Town government. The colony hired an inspector of government lands to supervise the operation of the new code, but the individual who held that office was so ill-suited for the execution of his task that he contributed to the breaking down of the existing administration. The inspector's incompetence was matched by the disintegration of the government's general coherence, as personal feuds, corruption, and malfeasance quickened in the 1820's. The result was that by 1828, the colonial government had intensified the problems Cradock had hoped to eradicate in 1813.

The procedure for obtaining land under the Cradock system was not simple. Applications were addressed to the governor, who then referred them to the district landdrost. The landdrost, one member of the board of heemraden, and a sworn surveyor, acting as a local land commission, visited the plot, reported upon its capabilities, and suggested an equitable quitrent. The surveyor measured the land and prepared a diagram, which, along with the commission's report, was forwarded to the colonial secretary's office. The secretary sent the information to the inspector of lands, who prepared a memorandum for the governor, which also was transmitted through the colonial secretary's office. If the governor approved the issuing of a title, the colonial secretary's staff prepared the document, submitted it to the governor for his personal signature, and then transmitted the deed through the landdrost's office to the applicant. More often than not the surveyor performed his duty only after Cape Town had approved the initial

inspection of the land. When this was the case, additional correspondence was needed among the various branches of government.

Governor Cradock felt that greater efficiency could be obtained merely by appointing a temporary committee to regulate the surveying system and by naming a permanent supervisor of lands to reside in Cape Town. The committee, consisting of members of the court of justice, was entrusted with fixing the fees charged by surveyors and recommending a plan for surveying land. Its recommendations were incorporated into a proclamation issued on 17 July 1813, which was slightly modified in September 1814.<sup>1</sup> The committee found it easy to regularize the fees charged applicants for the surveying and diagraming of their requests, but these fixed rates were high and applicants were required to pay the traveling expenses of the surveyors and local land commissions.<sup>2</sup> At first

1. Cape Town *Government Gazette*, 17 July 1813, 30 Sept. 1814.

2. The rates established by proclamation of 17 July 1813 were as follows:

1. landdrost's fee per day	4 rixdollars plus wagon expenses
2. heemraad's fee per day	4 rixdollars plus wagon expenses
3. field cornet's fee per day (the field cornet was often called upon for his knowledge)	4 rixdollars
4. surveyor's fee per day	4 rixdollars
5. surveyor assistant's fee per day	1 rixdollar
6. surveying charges:	
a. for measuring 10 morgen or less	6 rixdollars
b. for measuring 10 to 60 morgen	10 rixdollars
c. for measuring 60 to 100 morgen	12 rixdollars 4 skillings
d. for measuring above 100 morgen	1 skilling additional for each morgen
e. for drafting of the diagram for any grant	10 rixdollars
f. for making additional copies of the diagram (at least two were required)	2 rixdollars

In 1814 the landdrost's fee was raised to eight rixdollars per day and the heemraad's increased to six rixdollars. Also, after 1814, a messenger to the commission was allowed, and he received three rixdollars per day, plus expenses for maintaining a horse. If more than one survey was made in a day, the traveling and daily expenses of the commission and surveyor were divided among the applicants.

In addition to the above fees, the applicant had to pay for the drafting of the title and for a stamp affixed to the deed. The district secretary was allowed a commission of 2.5 per cent on the total surveying charges if there was any dispute on the division of expenses among the applicants or if there was any delay in the payment of the expenses.

What the fixed fees meant for the applicant can be seen in the following illustration:

If, after 1814, a holder of a loan farm, living within one day's journey of the land-

applicants were to pay the entire bill after the survey had been completed, but since so many refused to pay or could not pay the fees demanded, the governor ordered memorialists to deposit money with the landdrost to cover the estimated cost of the survey before the commission set out.<sup>3</sup> However, the practice varied from district to district, and many applicants were not asked to pay until after inspection.

No action was taken by Cradock's committee to test the qualifications of the sworn surveyors or to fix a standard unit of land measurement for the colony. English acreage was not introduced; the morgen was continued, but its exact size depended upon the scale of measurement used by the surveyor.<sup>4</sup> Since the surveying system was still dependent upon the skills of the surveyors,<sup>5</sup> there was no improvement in the accuracy of the Cape surveys. In 1876 the surveyor general of the colony wrote that after 1813

the surveyors had . . . become as rusty as their neglected chains. Most of them were content with dragging the chain from beacon to beacon, regardless of the inequalities of the ground, either estimating the angles or measuring them with the compass, and sketching the roads, rivers, etc., without paying any attention to the topographical relief or features; and if they did, representing them incorrectly or unintelligibly.<sup>6</sup>

Many of the surveys made under the Cradock regulations had to be redone at a later date and at the expense of the government.

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drost's residence, applied for the conversion of his land into perpetual quitrent, and if his was the only land surveyed on that day (the usual case), his bill would be:

	26 rixdollars for traveling expenses of the commission (plus wagon hire)
	12 rixdollars for two copies of the diagram
	12 rixdollars 4 skillings for the surveying of the first 100 morgen
	362 rixdollars 4 skillings for the surveying of the remaining 2,900 morgen
Total	413 rixdollars, plus wagon expenses, fees for title, and stamps on the deed.

3. Cape Town *Government Gazette*, 30 Sept. 1814.

4. Cape of Good Hope, *Report of the Commissioners for the Purpose of Determining the Unit of Land Measure within the Colony*, pp. 6-7.

5. In one instance, an applicant reported that "the Surveyor . . . had done no more than to go to the Spot where the . . . Middle Beacon stands, and there having looked through an instrument, in two or three directions, *without even taking out a chain*, turned round to him and said 'now your place is measured.' That the whole process did not take more than ten Minutes after which the Surveyor drove off, leaving him . . . in a state of perfect astonishment." The inspector of lands had to petition the governor for a new inspection and survey of the place. D'Escury to Bird, 5 Sept. 1814, C.O. 64 (Cape).

6. *Report of the Surveyor-General on Land Tenure*, pp. 102-3.



However, in 1813 the governor assumed that the fixing of surveying fees and the establishing of procedure for the local inspection commissions would "terminate the Complaints, and Disputes so troublesome hitherto, and all that is now required will be to allot to the several surveyors their respective occupations."<sup>7</sup> He was wrong.

Cradock upgraded the office of "Inspector of Government Lands and Buildings," whose previous occupants had devoted most of their time to the repair of public buildings, and searched the colony for a "person of Science, great Activity, and approved Integrity."<sup>8</sup> His colonial secretary helped him list the necessary qualifications of the new official, which were

qualities not often assembled in one man or even a Board—a Knowledge of the Rights of Government, of the Local Laws and customs which have construed its Enjoyment, a knowledge of the value of Land and Produce, and at least Such a knowledge of the practical Parts of Surveying as will render the Person . . . respectable to those employed, but above all He must possess . . . [the governor's] Esteem and Confidence.<sup>9</sup>

Unable to find his new inspector in the colony, the governor asked the Colonial Office to fill the vacancy. Lord Liverpool sent out Charles D'Escury, who had three irrelevant qualities: he had been recommended for a post in the colonies by Lord Auckland, a former president of the Board of Trade; he needed a job to recover from "heavy pecuniary losses";<sup>10</sup> and he was a Hollander who had difficulty hiding his admiration for all things British.<sup>11</sup>

D'Escury arrived in 1814, shortly before Cradock ended his stay in South Africa. Later D'Escury's title was to be altered to "Inspector of Lands and Woods," but he found that he could spend but part of his time supervising the land program. Cradock left him with the tasks of undertaking road repairs and construction, protecting the government forests, and advising the government on the state of agriculture. In order to increase his income, he also

7. Memorandum upon Lands, 14 June 1813, enclosure in Cradock to Bathurst, dispatch 62, 23 Aug. 1813, C.O. 48/17 (P.R.O.).

8. Cradock to Liverpool, dispatch 15, 4 March 1812, C.O. 48/13 (P.R.O.).

9. Alexander to Cradock, 13 Jan. 1812, enclosure in *ibid.*

10. "Statement by Mr. Charles D'Escury," 26 Sept. 1827, Theal, *Records*, XXXIII, 460.

11. D'Escury had left the Netherlands with the Prince of Orange in 1795 and received British citizenship in 1799. He quickly adopted English habits and married the daughter of Sir Robert Barclay, who later served as governor of Mauritius.

appointed him a sworn translator, a profitable but time-consuming position.

From the time of his arrival to his forced departure from the colony in 1827, D'Escury was left alone with one clerk in his small office in Cape Town. Neither governor nor colonial secretary inquired about how he was performing his duties; in fact, as D'Escury wrote Bathurst in 1826, "so entirely has the applying of the operations of this Department . . . been left to my direction, that to this day No Instructions have been framed for my guidance."<sup>12</sup> He seldom sought advice, and he never questioned his own approach to the execution of the Cradock reforms. D'Escury's inflexibility in attitude, lack of skill in administration, and unfamiliarity with the colony remained well hidden in a government that had little ambition of its own. If it had not been for his contentious personality and his drive to obtain a higher place in Cape society, he could have continued to remain in the administration. His eventual dismissal had nothing to do with his performance as a procrastinating and bungling inspector of lands.

D'Escury's general philosophy on the value of land reflected the ideas of Governor Cradock and was equally inappropriate to a sparsely settled colony with a plentiful supply of land. He assumed that by restricting the amount of land put into the hands of the colonists, the government could elevate the worth of the land and foster its development. Thus, he was suspicious of the land claims of the pastoralists; he preferred to make grants to the small, industrious cultivator of the soil. He said he was "not to make any grant, or confirm any possession of Land beyond what individuals can reasonably want according to their means of improving the same."<sup>13</sup> Through a judicious distribution of land to those who would improve it, D'Escury would "by making them duly sensible of their advantages, endeavour through gratitude, to bind the affections of the people to the Interests of the Crown."<sup>14</sup> The inspector never considered the self-sufficient nature of much of the Cape's agrarian life.

Fundamental to his philosophy was the fixing of high rents on all grants made by government. Although Cradock and his succes-

12. D'Escury to Bathurst, 29 April 1826, Theal, *Records*, XXVI, 314.

13. D'Escury to Somerset, 4 Sept. 1818, C.O. 89 (Cape).

14. *Ibid.*

sors considered the amount of rent to be of secondary importance—it should be moderate and based on the quality and location of the land—D'Escury maintained that high rents would prevent the greedy applicants from applying for more land than they could economically use and would encourage the small holders to seek higher profits from working the land.<sup>15</sup> As in so many instances, he defended his position by referring to conditions in England:

We have the indisputable proof before us how much the high rents to which the Farmers have of late years been put in England, have spurred on Industry and thereby produced the various improvements in Agriculture so beneficial to the Country at large, and which at the same time have enriched the Farmers themselves far beyond any former precedent.<sup>16</sup>

One governor gently reminded him that the colony was not an old European state:

The vague prices all Lands sell for in this colony is a clear proof that the South African public has not as yet arrived at that accuracy in the valuation of lands which the experience of many ages has effected in Europe and therefore great allowance must be made on this head. . . .<sup>17</sup>

The inspector was not convinced, and from 1814 until 1818, D'Escury, in his position as reviewer of the rents suggested by the local land commission, recommended rates calculated at 25 per cent of the gross profit of the land fully stocked and 10 per cent of the gross profit of the land fully cultivated. The inspector, basing his figure on what he considered to be the existing practice in Great Britain, divided the estimated income from property into four equal parts: one part was to cover the expenses of production; one part was to be reinvested in the land; and one part was to go to the producer as income. The remaining fourth was to be delivered to the government as a land tax or rent. In 1818, D'Escury reluctantly cut his figure of 25 per cent to 10 per cent of the gross profit from the land fully stocked and cultivated, since he was plagued with "incessant applications" for reductions in his

15. Memorandum by D'Escury, enclosure in D'Escury to Somerset, 28 Dec. 1821, Theal, *Records*, XIV, 222–23.

16. D'Escury to Bird, 22 Nov. 1814, C.O. 64 (Cape).

17. Bird to D'Escury, 13 June 1822, Theal, *Records*, XIV, 394.

quitrent figures.<sup>18</sup> The 10 per cent figure was used by D'Escury during the remainder of his years in office.

The inspector, who stayed in Cape Town and seldom traveled, made no attempt to test the validity of his high rent policy, yet his concept was obviously inappropriate. As the commissioners of inquiry, who were sent out by London to investigate Somerset's administration, reported in 1826:

His practical knowledge however of the subjects upon which it became his duty to treat and his acquaintance with the external character and local peculiarities of the country have been found on several occasions to be deficient, and to occasion him to be mislead [*sic*] in the application of his general views, nor has he had time to supply this deficiency by personal observation.<sup>19</sup>

In contrast to his method, the local land commissions in fixing their recommended quitrents based their figures on the economic conditions existing in the district. Although D'Escury was correct when he charged that the local commission followed no fixed policy—"their valuations being either at random, or arbitrary and partial"<sup>20</sup>—their suggested rents were more in keeping with the realities of South Africa. Unable to accept the lower rents of the district officers, D'Escury often refused to recommend the issuing of the title. He accused the local committee of neglecting its duty and of showing favoritism at the expense of government.<sup>21</sup> He also criticized the landdrost for his limited vision which jeopardized the future prosperity of the colony:

The magistrate has not yet learned to attach the proper value to the title now granted with the land, [a title] which is no longer temporary, but [which has] alienated the soil for ever, he does not in that respect look beyond the present moment more than what the farmer looks beyond his own personal interest, and the farmer will not cease to ask for more than he wants so long as the magistrate does not attempt to check him, from which combination of causes there results that the grants are always large and that frequently they have been made far beyond what circumstances demanded.<sup>22</sup>

18. D'Escury to the Commissioners of Inquiry, 26 Aug. 1824, *ibid.*, XVIII, 250-51.

19. "Report of the Commissioners of Inquiry to Earl Bathurst on the Charges Preferred by Charles D'Escury Against the Governor," 12 Oct. 1824, *ibid.*, XVIII, 492.

20. D'Escury to Bird, 8 Dec. 1821, *ibid.*, XIV, 198.

21. D'Escury to Somerset, 4 Sept. 1818, C.O. 89 (Cape).

22. Memorandum by Charles D'Escury, 20 Dec. 1822, Theal, *Records*, XV, 172.



The continuing struggle between D'Escury and the local commissions reduced the inspector's position in the government and further diluted Cape Town's facility to issue titles. Repeatedly D'Escury asked the landdrost to review the locally suggested rent or to provide additional information on the quality of the land. Since he was not empowered to correspond directly with the local officials, D'Escury had to rely upon the co-operation of the colonial secretary's office, but that office was one of the most inefficient in the government. The landdrosts were overworked, and reassessments cut into the time they could spend on their other functions as district administrators. Delays of months or even years were not uncommon, and original applications for land were mislaid or lost. Frequently, the deadlock between D'Escury and the district officials had to be broken by the governor, who either followed the recommendations of the local commission or fixed his own rate.<sup>23</sup> The commission of inquiry summed up the situation in one of its reports in 1826:

In general it may be stated that the rents recommended by the landdrost and heemraden have been much lower than those of the inspector of lands, and that the former, from being founded on local observation and practical experience, have generally been adopted in preference to the latter, as depending more upon theory. Although the estimates of the inspector of lands have certainly been too high, we are at the same time of opinion, that he has shown a commendable desire to improve this branch of the revenue, though mistaken, as we think, in considering that the interests of the public would be consulted by fixing a rate of assessment, which in the actual circumstances of the colony . . . could not be rigorously imposed without impoverishing the landholder.<sup>24</sup>

23. A few examples can illustrate this point.

<i>Grant</i>	<i>D'Escury's suggested rent (rixdollars)</i>	<i>Local commission's suggested rent (rixdollars)</i>	<i>Rent set by governor in title (rixdollars)</i>
A	53	24	30
B	144	122	130
C	246	49	49
D	95	60	60
E	200	98	100

See marginal comments, M. W. Thunnissen to Bird, 4 Sept. 1815, C.O. 68 (Cape); D'Escury to Bird, 17 Nov. 1818, C.O. 97 (Cape), and 8 Dec. 1821, Theal, *Records*, XIV, 193-97.

24. "Report of the Commissioners of Inquiry upon the Finances," Theal, *Records*, XXVII, 406.



So inflexible was D'Escury in his policy of assessing quitrents that in 1817 he openly opposed Cradock's successor, Lord Charles Henry Somerset,<sup>25</sup> when the governor agreed to reconsider quitrents already fixed in the deeds. The need for review was quite apparent; a fixed rent in money was not compatible with the fluctuating economic conditions in a colony having a continuous unfavorable balance of trade and a large proportion of its inhabitants separated from market centers. A land rent based on a percentage of the value of the farm or a tax on the number of livestock possessed by the individual would have avoided this inflexibility. The arbitration involved in establishing the rents and D'Escury's philosophy of high rents were contributing factors to the need for readjustments in the fixed rents. D'Escury could not accept the principle of review as "it would give free scope to that spirit of jealousy & litigation to which the people of this Colony are so prone. . . . the consequences must be fatal to the best interests of the Colony."<sup>26</sup>

The reassessment of rents was more immediately destructive to the land administrative system. An extraordinary amount of time was taken from government business to reassess rents in titles already issued. New reports had to be obtained from the landdrost and local commission. D'Escury had to prepare his report, and he dragged his feet because he opposed the principle. Once again, the reassessed rent might have to be an arbitrary one fixed by the governor. Then, too, the reassessment of rents resulted in an over-all reduction in the land revenue and tended to promote nonpayment of rents. Anyone with his rent in arrears was encouraged by the principle to apply for a reduction in his fixed rent, since the new rate was made retroactive for the years outstanding

25. Somerset, second son of the Duke of Beaufort, was "recalled" in 1826 but continued to serve as governor while living in England until June 1827. His family's influence in the Liverpool government has been examined in an excellent article by Michael Roberts. Roberts contends that Somerset did not receive unusually favorable treatment from Bathurst and that, contrary to legend, the Beaufort family did not have a block of votes in the House of Commons. See "Lord Charles Somerset and the 'Beaufort Influence,'" *Archives Yearbook for South African History* (2 vols.; Cape Town: Government Printer, 1951), II, 1-34. The governor is the subject of a recent biography by Anthony Kendal Millar, *Plantagenet in South Africa: Lord Charles Somerset* (Cape Town: Oxford University Press, 1965), but the work falls short in evaluating Somerset's policies and his administration. See a review of the same by Jeffrey Butler, *American Historical Review*, LXXI (Jan. 1966), 638-39.

26. D'Escury to Alexander, 1 Sept. 1817, C.O. 89 (Cape).

if all back rent was paid at once.<sup>27</sup> The problem of unpaid rents became more and more pressing.<sup>28</sup> D'Escury saw no relationship between the increasing amount of arrears and his high rent policy. The problem of arrears, he felt, was not his concern. He wrote the governor at one point "that altho it is true there are considerable arrears, they have originated in the mistaken indulgence of the Local Magistrates first allowing them, and afterwards suffering them TO ACCUMULATE, BUT NOT BY ANY MEANS IN THE RATE OF THE RENTS."<sup>29</sup>

D'Escury was successful in getting two of his principles recognized by the Cape government: that only "qualified applicants" should receive grants, and that no applicant should occupy his land until the title deed was issued. In both instances, his policies restricted rather than improved the government's leadership in the alienation of land. The inspector defined the "qualified applicant" as one who had demonstrated his ability through the accumulation of money or who possessed sufficient livestock and labor to reap immediate benefits from the land. His emphasis on the personal qualifications of the applicant was not a new idea to the colony. Caledon had screened applications for land by Hottentots and Bastards on the basis of the individual's standing in the community.<sup>30</sup> In at least one instance, Caledon refused to enlarge a grant for a European because the applicant had not cultivated the land he held.<sup>31</sup> Governor Cradock wanted land to go to the ambitious colonist, but D'Escury's interpretation of the word "qualified" was more emphatic: local commissions had to report on the amount of property, real and personal, held by each applicant and had to evaluate the applicant's ability to undertake profitably the development of the land.<sup>32</sup> Without such informa-

27. D'Escury to Secretary to Government, 18 June 1822, Theal, *Records*, XIV, 402. Of course a reduction in the fixed rent did not mean that rents could be collected. In 1836 the government declared that it would retain the old quitrent unless arrears were paid up shortly after the revised rent was fixed. Cape Town *Government Gazette*, 4 March 1836.

28. See chap. v, pp. 79-80, below. A subject in need of scholarly investigation is the colonial government's financial structure and taxation base. The problem of arrears would form a necessary part of such a study.

29. D'Escury to Somerset, 3 Jan. 1822, Theal, *Records*, XIV, 250.

30. Bussinne to Caledon, 28 Aug. 1809, C.O. 19 (Cape).

31. *Ibid.*, 31 Dec. 1809, C.O. 27 (Cape).

32. D'Escury to Bird, 2 Aug. 1814, C.O. 64 (Cape). For an example of a request refused, see Memorial of Blackley and Barrett with marginal notes, 2 Aug. 1821, C.O. 145 (Cape).

tion on the man's wealth, an application was incomplete in D'Escury's eyes. The inspector was rarely satisfied; he returned applications to the district landdrosts, who often found it impossible to provide the detailed information wanted; and he frequently asked that new inspections be made by the local committee.

He was irritated by what he considered to be an affront to the government's prestige: colonists would not wait for the issuance of their titles before they moved onto the land. The inspector convinced Governor Somerset in 1814 that the existing custom had to be abolished.<sup>33</sup> In June of that year, shortly after his arrival, Somerset declared that an applicant would forfeit his claim if he occupied the land prior to receiving its title. The land would be put up for sale and no compensation would be given for improvements erected by the "illegal occupier."<sup>34</sup> As was so often the case in Cape Town's pronouncements, this was a paper decree. There is no instance of land being put up for sale because of its prior occupation. Although local commissions were required to inform D'Escury of an applicant's illegal occupation, the district officials actually sanctioned the practice, since titles were so long in coming from Cape Town.<sup>35</sup> To the inspector, however, the proclamation was a positive step in insuring that "all grants and acts of favour should flow direct from Government."<sup>36</sup>

Other regulations of the Cradock system also were inoperative. According to a clause contained in every deed, holders were required to cultivate "as much acreage as possible" within three years and were prohibited from transferring the property during that period. Implied in the stipulations was a right on the part of government to review the activities of the holder three years after the issuance of the title. This could not be done, since the government was so far behind in approving the initial requests for land. Cape Town was well aware that land was being bought and sold before titles were issued, and, in some cases, before the application had been submitted to the government.<sup>37</sup> In 1816 the governor recognized the impossibility of restricting the actions of grantees

33. D'Escury to Bird, 22 May 1814, C.O. 64 (Cape).

34. Cape Town *Government Gazette*, 3 June 1814.

35. See chap. v, pp. 77-78, below.

36. D'Escury to Somerset, 4 Sept. 1818, C.O. 89 (Cape).

37. D'Escury to Bird, 2 Feb. 1815, C.O. 73 (Cape); D'Escury to Plasket, 15 Aug. 1825, C.O. 197 (Cape); De Smidt to Bell, 2 May, 13 Aug. 1838, C.O. 467 (Cape).

and officially allowed grants to be transferred as soon as deeds were issued.<sup>38</sup> Despite D'Escury's emphasis on the need "to ensure legal titles to Individuals. . . . To confirm and consolidate all legal possessions . . . ,"<sup>39</sup> Cape Town was to find that unless government could issue a deed within a reasonable period of time, the title lost much of its significance.

D'Escury's impertinence and self-righteousness cannot be overlooked as factors contributing to the administration's impotence in implementing the Cradock reforms. Since he was "entrusted with so arduous a task," the inspector demanded the full cooperation of every official, but he did not know how to obtain it.<sup>40</sup> He assumed that the opposition he met was due to his championing of justice. Once he informed the governor that he (D'Escury) was not being given the loyalty such an important official deserved:

But the very unpopularity of my office my Lord shows strongly its utility, for it proves there are infractions that are checked and corrected by it. And these several circumstances united point out the necessity of supporting the person who is entrusted with so arduous a task.<sup>41</sup>

He explained away all criticism of his actions in similar terms; he alone had to carry the burden of disciplining the government and the colonists:

While in like manner, watching the reports in other respects, looking into the Claims and Titles, and sifting the propriety of what these Reports often recommend to be granted, brings the Landholders within some sort of Bounds, and checks that Mania of grasping land, and monopolizing ten times more of it than what each individual can profitably make use of. This Necessarily makes me equally obnoxious to the Multitude.<sup>42</sup>

His ambitions barred him from recognizing any shortcomings within his own office. In January 1822, D'Escury asked Somerset for a seat on the court of justice. Six months later he repeated his request, claiming he was close to bankruptcy and in need of more money and greater prestige.<sup>43</sup> Somerset, who considered D'Escury

38. *Report of the Surveyor-General on Land Tenure*, p. 9.

39. D'Escury to Somerset, 4 Sept. 1818, C.O. 89 (Cape).

40. Marginal comments, D'Escury to Plasket, 10 May 1824, C.O. 197 (Cape).

41. D'Escury to Somerset, 4 Sept. 1818, C.O. 89 (Cape).

42. *Ibid.*

43. D'Escury to Horton and enclosures, 9 Sept. 1822, Theal, *Records*, XV, 39-48.



"totally unfit for a judgeship,"<sup>44</sup> balked. The disappointed inspector, hoping to impress London with his qualifications for higher office,<sup>45</sup> prepared a report on irregularities in the granting of land and hinted that his governor was more disposed to grant land to those who would buy horses from his stable.<sup>46</sup> Although the charges against Somerset were dismissed as an "unfortunate series of coincidences,"<sup>47</sup> the immediate result was the further crippling of D'Escury's usefulness in the Cape Town government.

The tension between the inspector and the governor began prior to 1822-23, in part growing out of the governor's policy of reassessing fixed rents, his rejection of D'Escury's high rents for new grants, and his failure to include D'Escury in his closed social circle. The inspector was quick to point out to the proud son of the Duke of Beaufort that he, too, had influential connections, and at one point he wrote: "I do feel myself perfectly equal to anyone in this Colony, Your Lordship not excepted."<sup>48</sup> Although he paid almost no attention to the subject of land policy, Somerset had always maintained that the inspector's office existed to advise him on any "partiality or undue influence" in the applications for land<sup>49</sup> and that the inspector did not have to be consulted before he approved titles for land. Friends of the governor, such as Sir John Truter, the president of the court of justice (who received 24,000 acres), did not have their requests put into the hands of the inspector. Then, too, the governor did not feel himself restricted to making grants only in perpetual quitrent; he made several in freehold.<sup>50</sup>

After his return in 1821 from a visit to England, Lord Charles Somerset proceeded to destroy his own government by waging vengeance against all who had served or supported the acting

44. Somerset to Bathurst, 7 July 1825, *ibid.*, XXII, 180.

45. Later, in 1826, when the inspector was under investigation at the request of Bathurst, he asked the Colonial Secretary to appoint him auditor for the colony. D'Escury to Bathurst, 29 April 1826, *ibid.*, XXVI, 314; memorandum by Hay, 15 Feb. 1828, C.O. 48/89 (P.R.O.).

46. Details of the case are found in C.O. 48/89 (P.R.O.).

47. The governor's secretary also defended him on the grounds that since virtually every colonist had petitioned for a land grant, it was impossible for Somerset not to sell his horses to applicants. Plasket to Horton, 1 Nov. 1825, C.O. 48/71 (P.R.O.).

48. D'Escury to Somerset, 4 Sept. 1818, C.O. 89 (Cape).

49. Somerset to Bathurst, dispatch 39, 23 Aug. 1815, C.O. 48/29 (P.R.O.).

50. "Report of the Commissioners of Inquiry to Earl Bathurst," 17 June 1825, Theal, *Records*, XXII, 36-37. None of Truter's requests was sent to D'Escury, although in some instances he received property in quitrent.



governor, Sir Rufane Donkin.<sup>51</sup> Donkin had run into the Beaufort temper when he attempted to prevent Somerset's son from removing property from the governor's official residence. Allegedly, the father swore that "he would undo all the Measures of his Predecessor."<sup>52</sup> Somerset forced his colonial secretary, Colonel Bird, out of office in June 1824, but even before this action the governor had eliminated the secretary from his coterie of advisers.<sup>53</sup> The commissioners of inquiry declared:

We have indeed always felt that Lord Charles Somerset's Suspicions of Colonel Bird's loyalty were carried to an unreasonable length and that they had led him to the adoption of that system of "Espionage" as it is termed by Sir Rufane Donkin, that has tended to weaken the attachment of several respectable Individuals to the Government of Lord Charles Somerset, and has awakened the suspicions and the fears of those who were not disposed to take any part in the dissensions that were known to divide the two persons who directed the affairs of the Colony.<sup>54</sup>

Scandal followed scandal as the governor withdrew from the capital to live a semiretired life in the country. A member of the court of justice committed suicide when it was discovered that he had taken over 36,000 rixdollars from the colonial treasury.<sup>55</sup> The receiver-general of land revenue, who had also served as a judge, was found guilty of embezzling nearly 44,000 rixdollars from quitrents and survey fees.<sup>56</sup> The governor, who spent but one day a week on public business, was also found guilty of padding bills and submitting erroneous financial reports.<sup>57</sup>

In this atmosphere the D'Escury-Somerset feud continued, and in 1824 the inspector protested that he could no longer gain access to the records which he needed to complete his work.<sup>58</sup> The new Secretary to Government, Sir Richard Plasket, summed up the state of the Somerset government in 1825:

51. Donkin had retired to the Cape to regain his health after a long tour of duty in India. Although he was completely unfamiliar with the colony, he served as governor from January 1820 until December 1821. He returned to England to help lead the fight against Somerset and entered parliament in his own right in the 1830's. In 1841 he committed suicide. *D.N.B.*, XV, 218-20.

52. Commissioners of Inquiry to Bathurst, 27 Dec. 1825, C.O. 48/75 (P.R.O.).

53. Bird to Commissioners of Inquiry, 28 April 1825, Theal, *Records*, XXI, 155-56.

54. Commissioners of Inquiry to Bathurst, 27 Dec. 1825, C.O. 48/75 (P.R.O.).

55. Somerset to Bathurst, 28 April 1825, Theal, *Records*, XXI, 148-49.

56. *Ibid.*, dispatch 63, 24 Nov. 1823, C.O. 48/60 (P.R.O.).

57. Commissioners of Inquiry to Bathurst, 27 Dec. 1825, C.O. 48/75 (P.R.O.).

58. D'Escury to Plasket, 10 May 1824, C.O. 197 (Cape).

Almost every single Department under this Government is in a state of total incompetence. . . . In the Office of Inspector of Lands, the Situation in which Mr. D'Escury remains as to his attack upon Lord Charles, renders his Services nugatory. . . . Some of the Landdrosts too and the Government Residents are so overwhelmed with debt, and so involved in their circumstances, as to render them anything but respectable in the eyes of those placed under their power and authority. . . . As to our finances, we are perfect bankrupts, and it is needless to conceal it, as we have not enough to pay our own salaries.<sup>59</sup>

Later in the year the governor was invited home to defend his administration against charges made by members of parliament and the press.<sup>60</sup> But before he could take advantage of the invitation, he was ordered home to explain the "dilapidated state of the finances of the Cape."<sup>61</sup>

The departure of Somerset did not help D'Escury. In June 1827, the inspector was formally dismissed from office for sending copies of confidential papers home to Donkin and members of parliament.<sup>62</sup> The inspector's wife pleaded with George Canning for a reconsideration of the action "resulting in D'Escury's removal from office at which Lord Charles appears to have aimed from the beginning and thus he has completed the ruin of the man who with more honest zeal than worldly prudence has dared to do his duty."<sup>63</sup> The inspector, still hoping for reinstatement or another colonial post, sailed for England in October 1827 with his wife and two young children. Shortly before the ship was wrecked in a storm, D'Escury died.<sup>64</sup>

Charles D'Escury was not replaced until 1829, when the Cape Land Board began to supervise the granting of land under a reformed Cradock code. However, his absence merely emphasized what had been true since 1813 in the administration of land grants: the government could not enforce the Cradock reforms.

59. Plasket to Horton, 28 Sept. 1825, C.O. 48/71 (P.R.O.).

60. *Ibid.*

61. Bathurst to Somerset, dispatch 234, 15 Jan. 1826, C.O. 49/19 (P.R.O.).

62. "Memorandum on D'Escury Case," 15 Feb. 1828, C.O. 48/89 (P.R.O.).

63. Mrs. D'Escury to George Canning, 20 Sept. 1827, Theal, *Records*, XXXIII, 469.

64. Theal's note, *ibid.*, p. 470.

## CHAPTER FIVE. THE RESULTS OF THE CRADOCK LAND SYSTEM, 1813-28

... the highest gratitude of the inhabitants of this colony would be equal to the value of the inestimable gift thus extended to them on the part of the Crown, which, by graciously offering to their acceptance a perfect title to lands that enabled them to provide for their children and descendants, and dispose of them as they pleased, granted to them, in fact, possession of an estate, and the high character and station of a "real landholder."<sup>1</sup>

ASIDE FROM THE ANGLICIZING OF THE SOUTH African colonist, the Cradock land system had three main objectives: to redefine the rights of the majority of landholders in the colony by the conversion of loan places into perpetual quitrent farms, to provide an orderly system of alienation for the making of new grants, and to increase the revenue of the government through the collection of quitrents based on the quality and location of the granted land. From 1813 to 1828 the Cape Town government was unable to achieve any of the three goals of the Cradock land reforms. At issue, however, was not merely the failure of the government to meet its professed objectives. The result of the government's inertness in the disposal of land was the strengthening of the Boer's informal landholding system; squatting, a familiar tenure in the colony, increased to the point that by 1828 it was probably the most common system of land occupation in use at the Cape. By its own dawdling, Cape Town encouraged the system it had sought to overcome in 1813. After 1828 the most important challenge facing the government in the field of land policy was that of illegal usage of crown land.

Cradock's first disappointment was the refusal of the loan-place holders to convert their farms into perpetual quitrent grants. The loan-farm tenure was secure and inexpensive; it fitted a frontier colony of sheep and cattle graziers. To many persons conversion

1. Cradock's proclamation, *Cape Town Government Gazette*, 6 Aug. 1813.

was costly and unnecessary. An applicant could figure that his initial cost in obtaining his farm in quitrent would amount to ten times the quitrent he would be asked to pay.<sup>2</sup> Twenty-nine Boers made this point to Cradock in 1813: "the greater number of us are unable to take our Loan places on Quit Rent because we have no money. . . . We do assure Your Excellency that Six Cattle Farmers are not able, between them, to procure 50 Rixdollars."<sup>3</sup> For several years after the promulgation of the conversion principle in 1813, the government received few requests from loan-farm holders. Cradock left the colony without making a single transfer. The first conversion in the Cape district did not take place until 1815. Stellenbosch district did not have a farm converted until after July 1817.<sup>4</sup> However, Cradock had stipulated that a loan-place holder could not obtain additional land until he had converted his farm. Thus, despite the Boer's unwillingness to change the tenure of his loan farm, he was forced to do so if he wanted to enlarge his legal holding or to build a new grazing run elsewhere in the colony. By 1821 Cape Town had received applications for the conversion of 82 per cent of the 2,206 loan farms in the colony.<sup>5</sup>

Charles D'Escury was pleased with the favorable though tardy response to the conversion principle. He told the governor that the government would soon benefit even more from the subdivision of the converted farms in response to "the increase of population, increase of industry and other impelling motives."<sup>6</sup> He spoke too soon. His office had been able to act upon 410 of the 1,808 requests by September 1821, but the remaining 1,398 applications were to overwhelm his and future administrations. In the next fifteen months, from September 1821 to January 1823, he and the government were to complete only thirty-three applications; 1,365 requests, some of which were already five years old, remained on file in 1823. Table 1, compiled from D'Escury's reports, shows the operation of the conversion principle from 1813 to 1823. In the next year, to January 1824, an additional thirty-three conversions

2. Plasket to Horton, 1 Nov. 1825, C.O. 48/71 (P.R.O.).

3. Petition of twenty-nine Boers of Sneeborg, 13 Oct. 1813, C.O. 58 (Cape).

4. *Report of the Surveyor-General on Land Tenure*, p. 23.

5. D'Escury, "Sketch on Land Tenure in Colony, of the Progressive State of the Measure for Converting and Improving the Land Tenure in this Colony, corrected to 6 Sept. 1821," C.O. 154 (Cape).

6. *Ibid.*

were made, almost all of which were in a single district.<sup>7</sup> D'Escury's production rate declined in the following year when but eleven requests were approved. In January 1825, the inspector still had at least 1,300 old applications for conversion on hand,<sup>8</sup> and the government was receiving new memorials for the remainder of the loan farms. By 1826 fewer than 25 per cent of the loan farms had been brought under quitrent tenure,<sup>9</sup> and in some districts, such as Tulbagh and Graaff Reinet, a converted place was almost unknown. Ten years later the percentage of loan farms converted did not exceed 32 per cent of the total convertible.<sup>10</sup> In 1838 there were still almost a thousand loan farms in the colony, and their number showed no significant decrease until after that year.

Table 1. *Conversion of loan farms at the Cape, 1813-1823<sup>a</sup>*

<i>District</i>	<i>Loan farms convertible</i>	<i>Loan farms converted</i>	<i>Percentage of conversions</i>	<i>Applications in process</i>
Cape	110	13	11.8	58
Stellenbosch	118	11	9.3	81
Swellendam	483	37	7.7	303
Graaff Reinet	392	56	14.3	301
Uitenhage	186	159	85.5	18
Tulbagh	684	30	4.4	510
George	233	137	58.8	94
<i>Total</i>	<u>2,206</u>	<u>443</u>	<u>20.1</u>	<u>1,365</u>

a. Compiled from "Sketch on Land Tenure in Colony, corrected to 6 Sept. 1821," and "Comparative Results of the State of the Land Tenure closed in 1821 and that closed on the 31 December 1822," C.O. 197 (Cape).

The provision of the Cradock system which was to encourage the conversion of loan farms also acted as a brake on the energies of government in the issuing of titles for new grants of land. Since conversion had to take place before a holder could obtain new land, his application for additional property was set aside by D'Escury. The applicant had to wait for government action on his

7. "Documents and Notes forming a Brief Statement of the Land Tenure at the Cape of Good Hope from its Origin to the Close of 1823," 31 Dec. 1823, I.L.W. 25B (Cape).

8. D'Escury, "Sketch on Progressive State of the Measure for Converting and Improving the Land Tenures in the Colony," 31 Dec. 1824, C.O. 197 (Cape).

9. "Report of the Commissioners of Inquiry upon the Finances," Theal, *Records*, XXVII, 413.

10. Cape of Good Hope Blue Book for 1836, C.O. 5978 (Cape).



conversion request before he could ask for action on his petition for new land. Tardiness in one area of land administration produced delay in another. The government was defeating its own goals, but the problem went unnoticed until 1838. In that year the land board urged the removal of the prohibition:

We beg to state that the objection bears hard upon the parties. When any individual has applied for the conversion of the tenure of his loan places into perpetual quitrent, he has complied with the wishes of Government, and when the measurement of the Farm and the completion of the Title is delayed, surely fault does not rest with the applicants.<sup>11</sup>

However, it was not until 1839 that the requirement for conversion was removed.<sup>12</sup> In the meantime, the colonial land administration collected applications on which it could take no action.

It appeared at first that the government would be more successful in meeting the requests for new grants of land in perpetual quitrent. Certainly there was no shortage of applicants. Cradock reported in 1813 that he had at least three thousand petitions in his office. Some of these were already quite old, because little land had been granted in any tenure since 1807. But the governor's determination to spend two days per week on "the unremitting prosecution of the task before Government"<sup>13</sup> suggested that he might be able to provide some relief to those who were anxious for land. And in fact he did issue 127 titles in a two-day period in October 1813. This, however, was the first and last example of a vigorous response by the Cape Town government. During the remainder of his stay, from October 1813 until April 1814, the governor made only forty-nine grants, and it was already apparent that the existing central and district authorities could not process the claims with any degree of efficiency. Of the 176 grants made by Cradock under the new regulations, 127 were for land in the Cape district and forty-seven were for land in the Stellenbosch district. The two remaining were awarded to the landdrost of Uitenhage.<sup>14</sup> Colonists in the northern and eastern districts, who had submitted a large number of applications,<sup>15</sup> were to find that the land admin-

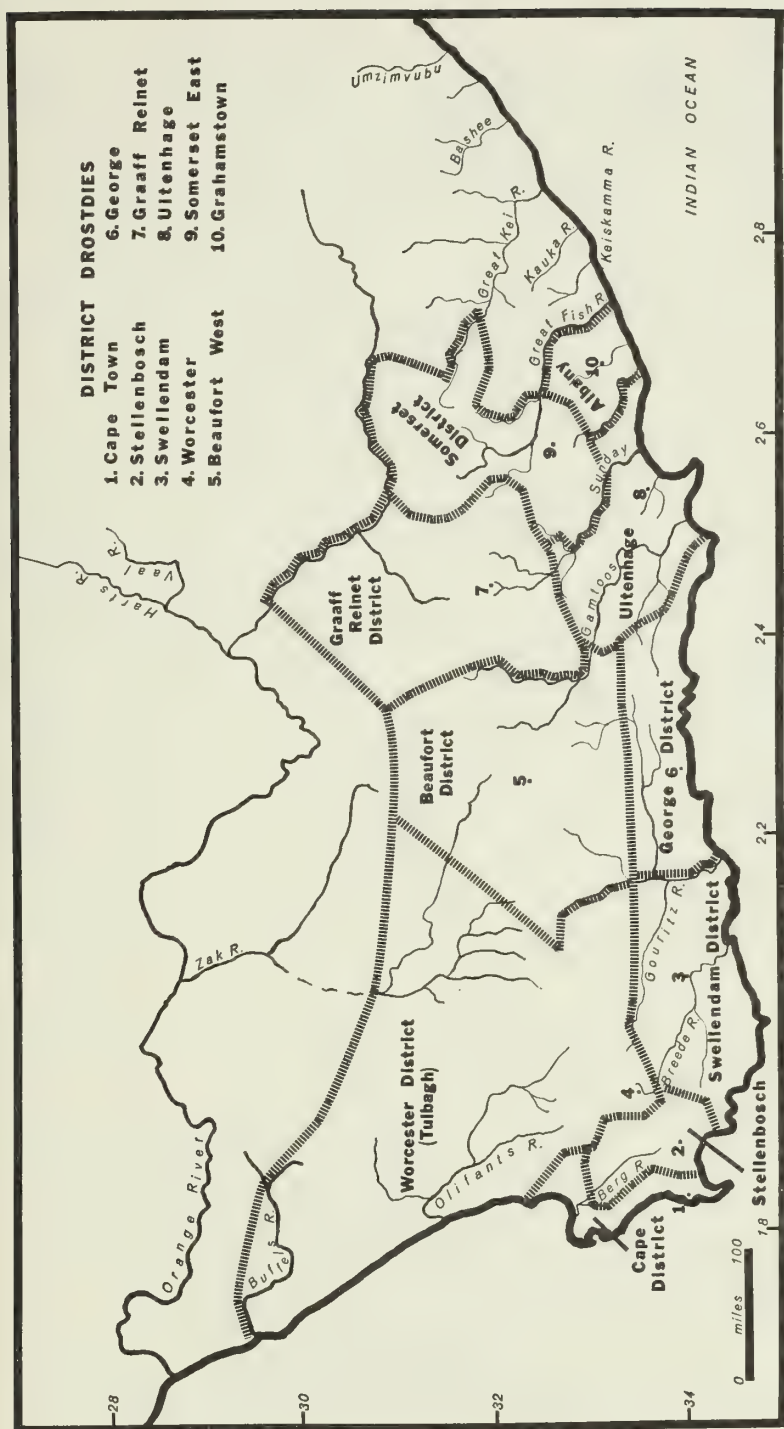
11. Land Board to Bell, 26 July 1838, C.O. 467 (Cape).

12. De Smidt to Bell, 20 Sept. 1839, C.O. 478 (Cape).

13. Memorandum upon Lands, 14 June 1813, enclosure in Cradock to Bathurst, dispatch 62, 23 Aug. 1813, C.O. 48/17 (P.R.O.).

14. *Report of the Surveyor-General on Land Tenure*, p. 22.

15. See Table 3, p. 75, below.



Map. 2. District divisions of the Cape colony, 1826

(After Böesken, *Geskiedenis-Atlas vir Suid-Afrika*, map 59)



istration could not include their requests in the issuing of titles. Governor Somerset approved sixty-seven titles during the remainder of 1814, but not one was for land in Graaff Reinets, Tulbagh, or Uitenhage, three districts comprising more than two-thirds of the colony.<sup>16</sup>

As applications mounted, their total in any single year was to exceed the entire number of titles issued under the Cradock regulations from 1813 to 1828. The Cape's colonial secretary admitted that there were more than five thousand requests on hand in 1824,<sup>17</sup> and his successor complained in the next year that there "is not a single Post from the Interior that does not bring a dozen Petitions for Land."<sup>18</sup> During D'Escury's fourteen-year inspectorship, the government distributed 2,061 titles for all classes of quitrent tenure, including town lots and converted loan farms. Applications for large plots were in the majority, but only 1,337 of the 2,061 titles were for grants in excess of 250 morgen each.<sup>19</sup> The yearly average of land alienated was slightly over 173,000 morgen, but this figure was exceeded or maintained only during the first years of D'Escury's stay. Beginning in 1822, when the inspector began his open fight with Somerset, the amount of land alienated per year fell below the earlier average: 127,042 morgen was granted in 1822, 61,067 morgen in 1824,<sup>20</sup> and 28,395 morgen in 1828.<sup>21</sup>

Accurate returns on the alienation of land from 1813 to 1828 are impossible to obtain; little attempt was made by the government offices to keep proper and consistent records. Reports to the governor on the amount of land granted in each year and on the rents paid into the treasury were frequently submitted with blank columns or with out-of-date statistics.<sup>22</sup> D'Escury's papers provide

16. *Report of the Surveyor-General on Land Tenure*, pp. 22-23; Somerset to Bathurst, dispatch 39, 23 Aug. 1815, C.O. 48/29 (P.R.O.).

17. Bird to Commission of Inquiry, 9 Jan. 1824, Theal, *Records*, XVI, 505-6. The figures for applications in 1813 and 1824 were for those received at Cape Town and do not include memorials in the possession of the landdrosts.

18. Plasket to Horton, 1 Nov. 1825, C.O. 48/71 (P.R.O.).

19. "General Report of the Colonial Land and Emigration Commissioners," 2 April 1844, Great Britain, *Sessional Papers*, 1844 (178), XXXI, Appendix 15, p. 44.

20. "Documents and Notes forming a Brief Statement of the Land Tenure at the Cape of Good Hope from its Origin to the Close of 1823," I.L.W. 25B (Cape); "Sketch on Progressive State of the Measure for Converting and Improving the Land Tenures in the Colony," 31 Dec. 1824, C.O. 197 (Cape).

21. Manuscript copy, Cape of Good Hope Blue Book for 1828, C.O. 5970 (Cape). Land figures were omitted from the copy mailed to London.

22. De Smidt to Bell, 10 Jan. 1828, C.O. 278 (Cape); also "Yearly Abstracts of the Accounts of His Majesty's Receiver General at Cape of Good Hope" for years 1813 to 1825, bound in Theal, *Records*.

a few incidental reports which shed limited light on the amount of land alienated per year in the several districts of the colony. For example, D'Escury prepared two tables, one in 1822 and one in 1824, which, if compared, reveal the distribution of land in perpetual quitrent to 1824 (as shown in Table 2). Again it is clear from D'Escury's reports that, with the exception of Uitenhage, the more remote districts were not sharing in the distribution of titles, although in Graaff Reinet alone there were more than a thousand old petitions for grants in 1824.<sup>23</sup>

Table 2. *Perpetual quitrent grants for new land made at the Cape from 1822 to 1824 (in morgen)*<sup>a</sup>

District	Amount of land granted in quitrent to 31 Dec. 1822	Amount of land granted in quitrent to 31 Dec. 1824	Amount of land granted in quitrent 1822 to 1824
Cape	46,593	50,725	4,132
Stellenbosch	118,892	121,520	2,628
Swellendam	86,338	125,461	39,123
Graaff Reinet	118,580	140,352	21,772
Uitenhage	306,964	409,966	103,002
Tulbagh	32,568	40,933	8,365
George	76,559	78,629	2,070
Albany	20,556	90,400	69,844
<i>Total</i>	807,050	1,057,986	250,936 <sup>b</sup>

a. Compiled from "Comparative Results of the State of the Land Tenure closed in 1821 and that closed on the 31 December 1822," C.O. 197 (Cape); "Sketch on Progressive State of the Measure for Converting and Improving the Land Tenures in the Colony," 31 Dec. 1824, C.O. 197 (Cape).

b. Of this amount, 189,869 morgen was granted in 1823 and 61,067 morgen was granted in 1824.

That such an annual alienation rate fell far below the amount needed to satisfy the requests for land can be demonstrated by comparing D'Escury's period with that of the 1830's. From 1813 to 1828, the amount of land granted in perpetual quitrent (including converted loan farms) totaled 5,206,018 acres or 2,603,009 morgen. From 1829 to 1840 the amount of land granted in perpetual quitrent (including converted loan farms) totaled 26,326,373 acres or 13,163,187 morgen.<sup>24</sup> Since a large majority of the grants in the 1830's were for applicants who had not been able to receive their land under D'Escury, the amount of land alienated from 1829

23. Bird to Bigge, 6 May 1824, Theal, *Records*, XVII, 297.

24. "General Report of the Colonial Land and Emigration Commissioners," 2 April 1844, Appendix 15, p. 44.



Table 3. *Applications for land made from 1812 to 1828 which had been referred to the district officers and on which no action had been taken<sup>a</sup>*

<i>District</i>	<i>Number of applications</i>
Cape	30+
Stellenbosch	200
Swellendam	240
Worcester	900
Uitenhage and George	120
Somerset and Albany	500
Graaff Reinet	1,000+
<i>Total</i>	2,990+

a. Michell to Bell, 8 Dec. 1830, C.O. 374 (Cape).

to 1840 was closer to the amount the colonists had applied for in the earlier period.

A more revealing condemnation of the operation of the Cradock codes from 1813 to 1828 is found in the backlog of applications left behind by D'Escury. By 1828 there were over 1,600 memorials for land in the Cape Town offices which had been inspected and surveyed by the local commissions, but before titles could be drafted for them, D'Escury and the administration needed to agree on an equitable quitrent for each grant.<sup>25</sup> In addition, at least 2,990 requests were in the hands of the local commissions for inspection or review. (The distribution by district is shown in Table 3.) Throughout the 1830's, and even as late as the 1840's and the 1850's, succeeding land administrations were to discover applications which had been made during D'Escury's stay but on which no final action had been taken by the government. A field cornet paid two hundred rixdollars for the inspection and survey of a tract of land in 1821, but his application and records were lost in the offices of government until 1834.<sup>26</sup> A loan-place holder in Worcester was still waiting in 1843 for the government to approve the request which he had made in 1815 for the conversion of his farm;<sup>27</sup> in 1850, Cape Town attempted to locate a memorial for the conversion of three loan farms that had been received in 1817.<sup>28</sup>

The government's dilatory actions in the granting of titles and

25. Land Board to Bell, 9 July 1829, C.O. 370 (Cape).

26. Michell to Bell, 24 Sept. 1834, C.O. 425 (Cape).

27. Michell to Montagu, 1 May 1843, C.O. 515 (Cape).

28. Montagu to Land Board, 12 Oct. 1850, L.B. 100 (Cape).

its primitive supervision over the colony were direct stimulants to the development and continuation of squatting. In 1826 the commission of inquiry reported its alarm at the growing practice and began to formulate corrective measures.<sup>29</sup> The commissioners urged the colonial government to face this problem by extending recognition to the illegal occupiers and collecting a tax on all land held in the colony, with and without government sanction.<sup>30</sup>

The commission's findings on the extent of squatting should not have surprised the government, for from time to time Cape Town had been made aware of the informal landholding systems used by its subjects. Yet the knowledge did not induce the taking of action. In 1818 the secretary to government, in writing on the eastern districts, said:

the several classes of Inhabitants seem almost to have been left in or to have sunk into a state bordering on barbarism and Scarcely to have attended to any of those regulations which the wisdom of the Legislature has from time to time established for the Security and benefit of Society. Hence the land is occupied either without any title or by such uncertain tenure that the distinction of property is scarcely defined.<sup>31</sup>

Surveyors, too, complained to Cape Town that not only was squatting increasing in the colony but that the Boers were becoming reluctant to apply for land from the government. In the district of Stellenbosch, where not a single inspection or survey was made in a twelve-month period, the sworn surveyor asked the government for financial relief because he saw that few applications would be made in the future:

Every Proprietor of land in this District, claims his ancient boundaries, keeps his money in his pocket, and possesses the Government Ground, in the same manner as if he had a Title Deed, such Persons, it is natural to suppose, will not be in haste, to trouble the Government with Applications for new Grants of Land.<sup>32</sup>

Another surveyor, John Hope of Albany, urged the government to

29. "Report of the Commissioners of Inquiry upon the Administration," Theal, *Records*, XXVII, 383-84; "Report of the Commissioners of Inquiry upon the Finances," *ibid.*, pp. 406, 414-16.

30. "Report of the Commissioners of Inquiry upon the Finances," *ibid.*, p. 416. Also see chap. vii, pp. 98-99, below.

31. Bird to deputy landdrost of Beaufort, [Dec.] 1818, enclosure in Somerset to Bathurst, dispatch 19, 28 Dec. 1818, C.O. 48/37 (P.R.O.).

32. W. B. Rowan to Bell, 15 May 1828, C.O. 278 (Cape).

adopt a liberal land-granting system as the only solution to the squatting problem:

My wishes are that every acre should be private property and every intervening tract, if in itself not adapted for a separate farm, should be granted to the most efficient man next to it. Good grazing lands, now government property . . . , still afford food for the neighbours' cattle free of any tax—better to make these vacant pieces the property of some one—and Government will reap the annual rent. . . . By having no more [land] to give, the Government will be released from a host of applicants whose claims or requests increase the labours and the correspondence of the public offices and the public Servants who are now buried under the heap of accumulated memorials, and arrears of work. . . . The Government keeping land by them, ready for any applicant, reminds me of a man keeping bread and meat in case any hungry or starved fellow should pass by and ask for it—in the mean time, the bread grows musty and the meat stinks—so the unoccupied land is left to the ravages of any who choose, to fell its timber, burn its grass or commit any other kind of spoilage on its natural beauty—an owner would prevent this.<sup>33</sup>

The Boers' self-devised method of holding land was capable of providing reasonable security for the settled grazier and farmer. The old system of loan-farm tenure reappeared in the colony under the name of "request" tenure. Request places, so named because the land had been petitioned for from the government, achieved a semiofficial status from the local district officer who respected a man's claim and often registered it in his books.<sup>34</sup> The farms were bought and sold and enjoyed almost all of the rights of

33. John Hope to Plasket, 15 March 1825, C.O. 247 (Cape).

34. In his autobiography, Sir Andries Stockenstrom, who was landdrost of Graaff Reinet during the governorship of Somerset, reports a conversation he had with the governor in 1818 when Somerset inquired if the district could absorb the British settlers who were to be sent out in 1820. After Stockenstrom informed the governor of the widespread practice of squatting in the district, "the Governor, drawing up with prodigious dignity, said, 'But you must know, sir, that the Landdrosts are strictly forbidden to allow the occupation of Government land.' I then . . . said: 'I do know it, my lord—forbidden on pain of dismissal from office; but the Colonial Secretary might have told your Lordship that that occupation took place long before I had anything to do with the district; that the Government knew it; that it was notorious; that Sir J. Cradock's proclamation gave those occupants reasonable hope that where the application was not immoderate it would be granted, provided the applicant should comply with the quit-rent regulations; that numerous petitions were at once sent in on the faith of that proclamation; that in many instances the pecuniary deposits have already been made; in some cases the lands have been already surveyed, and in most cases the people are prepared to do everything the said law prescribes, and I can only assure your lordship that if the squatters be driven from those lands, they have no alternative except migrating beyond the

quitrent or freehold property. The extensive number of request places also gave the illegal tenure additional strength. Many wards of the districts contained nothing but request places.<sup>35</sup> In 1824 in the district of Graaff Reinet there were at least a thousand request places, of which thirty-six had been inspected by the local land commission but of which none had been granted in perpetual quitrent.<sup>36</sup> Indeed, one can conclude that the hundreds of applications for land left on file when D'Escury's career ended represented many of those who had settled on land under the request-place system.

The permanence of the request-place tenure and of squatting in general was to plague the colonial administration throughout the 1830's and early 1840's. In 1843, when the entire backlog of applications from the days of D'Escury had not been completely reduced, the surveyor general complained that he was still battling with the Boers' method of landholding:

they will continue in daily expectation of the [titles] and in the exclusive use of the ground applied for, it having been too much the custom here for persons to consider land their own (even to the impounding of cattle trespassing on it) from the moment it has been measured on their memorial.<sup>37</sup>

D'Escury's prohibition against the occupancy of land before title was issued became an anachronism. In place of his system, which he claimed would bring the colonist within the fold of the government, the South Africans had reverted to individual initiative in the alienation of land. The recommendation of the commissioners of inquiry in 1826 that all land occupiers have their holdings recognized through the liberal issuing of squatting leases<sup>38</sup> was an indictment of the Cradock land system as it existed from 1813 to 1828.

The squatting system and the government's incapacity to over-

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frontier, and coming into collision with the native tribes, and that at any rate for me it will be impossible to make the old established Boer give way to the newcomers.'" Hutton, ed., *The Autobiography of the Late Sir Andries Stockenström*, I, 131-32.

35. Commissioners of Inquiry to Bourke, 20 July 1826, Theal, *Records*, XXVII, 120-21; P. J. van der Merwe, *Die Noordwaartse Beweging van die Boere voor die Groot Trek (1770-1842)* (The Hague: W. P. van Stockum & Son, [1937]), pp. 127-28.

36. Bird to Bigge, 6 May 1824, Theal, *Records*, XVII, 296-97.

37. Michell to Montagu, 20 Nov. 1843, C.O. 515 (Cape).

38. "Report of the Commissioners of Inquiry upon the Finances," Theal, *Records*, XXVII, 416.

come it encouraged the continuation of the perennial problem of land arrears. Although Cradock's reforms had as one of their objectives the increase in the revenues of the government, the treasury received less and less in proportion to the assessments levied on land. At the commencement of the Cradock reforms, the average yearly amount of arrears in land rents was 60,000 rixdollars; by 1825 the yearly figure exceeded 216,000 rixdollars. In 1813 the government received 68,291 rixdollars of the fixed annual land assessment of 69,839 rixdollars. In 1825 the government received only 88,580 rixdollars out of an increased annual assessment of 120,326 rixdollars.<sup>39</sup> Arrears for perpetual quitrent grants comprised the greatest portion of the colonists' unpaid rents.

Table 4. *Land revenue and amount of arrears, 1813-25 (in rixdollars)<sup>a</sup>*

<i>Year</i>	<i>Amount of rent due<sup>b</sup></i>	<i>Amount of rent collected</i>	<i>Amount in arrears</i>	<i>Amount in arrears from perpetual quitrent grants</i>
1813	69,839	68,291	60,941	0
1814	78,133	72,036	66,370	1,375
1815	84,128	51,532	98,548	17,472
1816	89,698	73,765	112,879	31,726
1817	101,823	71,176	141,091	44,948
1818	109,332	82,767	162,515	60,170
1819	115,159	70,878	196,782	80,692
1820	119,420	116,940	175,203	73,709
1821	121,778	95,600	183,787	73,922
1822	122,631	110,405	182,241	78,559
1823	119,983	99,701	184,713	86,576
1824	119,218	90,467	198,499	100,910
1825	120,326	88,580	216,227	110,386

a. Compiled from Office of Land Revenue to Plasket, 10 July 1827, C.O. 315 (Cape).

b. The annual assessment on lands fluctuated because of a number of factors, including the abandonment of loan farms and the reassessment of rents, in addition to issuance of new titles.

The increasing loss of income for the crown was but another symptom of the anarchy which prevailed under the Cradock regulations. The inability of the administration to convert loan farms into quitrent properties, to issue titles for new grants, and to recognize its isolation from the colonists contributed to the disintegration of the promise held out by Governor Cradock. Then,

39. Office of Land Revenue to Plasket, 10 July 1827, C.O. 315 (Cape).



too, no one in the administration attempted to broaden or to redefine Cradock's definition of the government's land policy. It had not contributed to the improvement of the Cape's economic life,<sup>40</sup> and it had added nothing to the amelioration of the colony's social problems.<sup>41</sup> A new promise of an improved administration, with a less hindered and more candid understanding of the needs of the colonists, was made by the commission of inquiry in 1828; reform was more vital then than it was in 1813.

Yet the Cape's own blundering in administering the Cradock law from 1813 to 1828 was increased by London's occasional interference in Cape land policy. The Colonial Office, in a series of random and irresolute dispatches, altered the intention of the Cradock reform and limited its applicability; its actions must be sketched out to complete a study of British land policy at the Cape from 1813 to 1828.

40. From 1814 to 1824, colonists increased the amount of land under cultivation by 16,565 morgen. In submitting this figure to London, Somerset added that "at a distance from Cape Town no greater extent of land is cultivated than suffices to raise grain for the consumption of the local community." Somerset to Bathurst, 30 Sept. 1824, Theal, *Records*, XVIII, 326-27.

41. Six Hottentots received small tracts of land from 1817 to 1824 (enclosure 4 in Somerset to Horton, 26 Oct. 1824, C.O. 48/163 [P.R.O.]), and, as the commissioners of inquiry found, the non-Europeans were "considered as being incapacitated by law from holding lands; and that, with a very few and late exceptions, they have never held any." "Report of J. T. Bigge, Esquire, upon the Hottentot and Bushman Population," Theal, *Records*, XXXV, 313.

## CHAPTER SIX. IMPERIAL INTERFERENCE IN THE ADMINISTRATION OF CAPE LAND POLICY, 1813-28

THE COLONIAL OFFICE HAD THREE MAIN WORRIES concerning the course of the government's activity at the Cape. The first was that the colony would be drawn into fighting new wars on the frontier in the east and northeast. Year after year, London fretted about the immediate results and the long-range repercussions of the variety of frontier policies pursued by the early governors. A warning about unnecessary bloodshed,<sup>1</sup> a reminder that Britain wanted no new responsibilities in the subcontinent,<sup>2</sup> a sometimes searching question on the futility of waging punitive expeditions against the Africans<sup>3</sup>—these were the stuff of Britain's dispatches until 1835, when discontent with the governor's expensive war policies and his threat to carry British sovereignty beyond the limits of the colony resulted in London's taking a more vigorous role in framing programs aimed at resolving the conflicts along the frontier between Europeans and Africans.

London's second concern was that of improving the lot of the slave and guarding against any enslavement of African communities along the frontier. Although one reason for the Colonial Office's interest in the status of the slave was to provide reports and compile statistics called for by the Saints in parliament,<sup>4</sup> there was also a growing appreciation within the Colonial Office for the need to regulate the conditions of servitude within the Empire.<sup>5</sup>

1. For example, Liverpool to Cradock, dispatch 14, 20 Dec. 1811, C.O. 49/10 (P.R.O.).

2. *Ibid.*; marginal notes, Cole to Murray, dispatch 24, 14 June 1829, C.O. 48/130 (P.R.O.); Glenelg to D'Urban, private and confidential, 20 Oct. 1835, C.O. 48/161 (P.R.O.).

3. Bathurst to Cradock, dispatch 4, 29 July 1812, C.O. 49/10 (P.R.O.); Bathurst to Bourke, dispatch 275, 2 July 1826, C.O. 49/19 (P.R.O.).

4. For example, Somerset to Bathurst, dispatch 62, 16 Dec. 1823, C.O. 48/160 (P.R.O.); Somerset to Horton, 26 Oct. 1824, C.O. 48/63 (P.R.O.). The Saints, of course, were those members of parliament who favored and participated in the various campaigns for improvements in the status and welfare of the slave. Wilberforce's older Clapham Sect, the African Institution (founded in 1807), and the London Society for the Mitigation and Gradual Abolition of Slavery throughout the British Dominions (founded in 1823) were each in turn the major organizations exerting pressure on the British ministries and parliaments.

5. For example, Bathurst to Somerset, dispatch 73, 10 Aug. 1823, C.O. 49/16 (P.R.O.).

Beginning in 1815, if not before, Bathurst and his associates began to press for an improvement in the nature of slavery in the West Indies. From time to time this interest was carried over to South Africa, despite the observations so frequently made by the Cape governors that the Boer did not have a plantation mentality and that the South African slave was more a household servant than field hand. The painful and exceedingly frustrating experience of dealing with the West Indian legislatures slowly resulted in a hardening of the Colonial Office's attitude.<sup>6</sup> At last in 1823 the Liverpool ministry took up the banner from the Saints and vowed to push a vigorous amelioration policy, but just as in the previous years, the Colonial Office had to seek ways to implement the objectives of the cabinet. Bathurst and his successors tried a variety of techniques, and the Cape was to be included in many of these. The shame and miscarriages of justice emitting from the West Indian courts showed the Saints and, at times, the Colonial Office that slaveholding colonists could not be humanitarians. The suspicions cast on the actions or possible actions of a colonial society possessing slaves also were involved in the Colonial Office's feelings concerning the Cape. Registrars of slaves, commissions of circuit, and governors could expect their reports on the treatment of slaves to be read closely and commented upon by the personnel in the Colonial Office.

The third worry was connected to the first: to keep the Cape's expenses in line with its income. This was a universal principle in the Empire, but the Cape, with its high salaries for English officials in proportion to its small and irregular income and its costly campaigns on the frontier in proportion to its miscellaneous exports, was the special target for economy drives by London. It was Bathurst in 1812 who dampened Cradock's mood for reform with the remarks:

In adverting to the various improvements . . . I cannot but express my regret at the very considerable expence to which they will give rise. . . . You will naturally select for adoption in the first instance those improvements which appear to be of absolute necessity and which are most compatible with the finances of the Colony.<sup>7</sup>

6. For an excellent recent presentation of this subject, see Murray, *The West Indies and the Development of Colonial Government*, pp. 103-8, 129-45.

7. Bathurst to Cradock, dispatch 11, 30 Nov. 1812, C.O. 49/11 (P.R.O.).

The Colonial Secretary, who always allowed Governor Somerset to explain his actions in his own way, addressed one of his sharpest criticisms to the governor in 1826 when he asked how the expenses of government could increase each year when there was no reason to believe that the population was increasing more rapidly than that of other colonies.<sup>8</sup> A few years later a governor made the mistake of spending almost £3,000 on road construction without obtaining London's permission prior to beginning the projects. The Colonial Office's comment was "unpardonable—direct violation of Instructions."<sup>9</sup>

However, although London wished to initiate or regulate certain programs or policies for the colony, it would be misleading to conclude that it had a continuing or determined interest in Cape affairs. Even the instructions on frontier and slave policies could be imprecise and unreal for the actual conditions within the colony. Then, too, decisions and intentions in these areas were often subjected to the overriding interest of keeping the British treasury from having to support the colony, such as when Bathurst told the governor that he could hardly expect London to pay for an educational system for the slaves.<sup>10</sup> The demand for caution in allocating money and the refusal to see that an appropriation in the present might result in a decrease in the claims made against the treasury in the future saved the colony and Great Britain no money. This problem was a permanent one, and too often it produced further problems which taxed the energies of the best administrators in London and Cape Town.

By emphasizing economy in administration of the Cape while asserting jurisdiction over a huge territory with a frontier stretching over hundreds of miles, Britain incurred huge expenditures, exacerbated racial friction, and contributed to periodic wars that were an ever-increasing drain on the British Treasury.<sup>11</sup>

The Colonial Office did not recognize its own contributions to the failure of its schemes; instead, it exercised its right to judge ideas in terms of their immediate costs while still refraining from a serious examination of the state of affairs in the colony.

8. Bathurst to Somerset, dispatch 264, 21 April 1826, C.O. 49/19 (P.R.O.).

9. Marginal note, Cole to Murray, dispatch 15, 8 Feb. 1830, C.O. 48/135 (P.R.O.).

10. Bathurst to Bourke, dispatch 277, 4 July 1826, C.O. 49/19 (P.R.O.).

11. Galbraith, *Reluctant Empire*, p. 4.

Also, in those areas of administration which were either peculiar to the Cape or in which London voiced no demands, there was too great a tendency on the part of the Colonial Secretary to approve rather than to question the decisions of the governors. In the main, that approval was based on what information the governor felt he should supply to London. The Colonial Office was slow to seek answers to questions of its own; it recorded the receipt of dispatches but at times it ignored their contents. The Colonial Office's remoteness from the problems of the colony was reinforced by its own unhurried pace in responding to the communications from Cape Town, be they important communiqués or routine reports. The former undersecretary, Henry Goulburn, wrote the permanent undersecretary, R. W. Hay, in 1825: "but at all events in a Cape matter a few months delay makes no material difference & I will endeavour to refresh my recollections when I return to Town."<sup>12</sup>

Parliament seemed to share—or perhaps it originated—the Colonial Office's view of the Cape. In searching for any show of influence by the Somersets and Beauforts in parliament, Michael Roberts has come to the conclusion that "apart from those occasions when Hume or Brougham dragged the concerns of the Cape before the House, and apart from the pressure of the 'Saints' in regard to the Slaves and Hottentots, nobody seems to have given any attention to South African affairs."<sup>13</sup> The situation would change in the 1830's when the colony's wars and racial tensions became subjects of concern in parliament and when London launched emigration projects and other imperial programs. Until then the Cape was rarely a topic of conversation in governing circles.

The Colonial Office's inert attitude to almost all Cape problems extended to legislation on land alienation. Although there may have been a common understanding on the value of waste lands in the colonies—that is, that land was an asset belonging to the local government which could be used to produce a revenue, subsidize projects, and reward friends and servants<sup>14</sup>—it is true that until the 1830's the Colonial Secretary did not feel it desira-

12. 26 Aug. 1825, C.O. 48/73 (P.R.O.).

13. "Lord Charles Somerset and the 'Beaufort Influence,'" p. 28.

14. R. G. Riddell, "A Study of the Land Policy of the Colonial Office, 1763-1855," *Canadian Historical Review*, XVIII (Dec. 1937), 387.



ble to standardize land laws or to participate actively in the enforcement of basic land codes. On the other hand, London did not completely remove herself from colonial land policies; as in the case of the Cape, she felt that by influencing the method of distributing land she could achieve some of her more important goals. Therefore, from time to time, London established new conditions for the operation of the Cradock system. However, her general indifference and ignorance gave her occasional intervention an irresponsible character, and her instructions (if obeyed by the Cape government) resulted in the suspension or curtailment of land grants and in a general weakening of the force of government in the colony.

Cradock's new regulations were readily approved by the Colonial Office. It might be expected that this approval was based on Cradock's willingness to introduce a perpetual quitrent system into the land titles in the colony. Certainly the quitrent principle was more conducive to traditional British thought on the obligations of landholders. Furthermore, despite a century and more of seeing the quitrent system in North America a subject of contention between the governing and the governed and a weak and unsteady source of revenue, London still clung to the prospect of raising revenue through the collection of rents in the colonies of settlement.<sup>15</sup> Although the United States was in the process of proving that the outright sale of land was a more promising source of income for the government, Great Britain in this period preferred to see her colonies maintain a principle which had not been and which was still not successful when applied to underdeveloped areas. The chief reason for the inability to collect rents in the past was the lack of "adequate official organization and a tactful policy which paid careful attention to local demands."<sup>16</sup> This was still to be true in those colonies where the principle remained a part of the land alienation system, but whereas the Colonial Office might have given Cradock a résumé on the problems of collecting a small rent from a scattered population, it chose to say nothing about the method the governor had devised

15. Norman Macdonald, *Canada, 1763-1841: Immigration and Settlement; the Administration of the Imperial Land Regulations* (London: Longmans, Green, 1939), pp. 206-11.

16. Beverley W. Bond, Jr., *The Quit-Rent System in the American Colonies* (New Haven: Yale University Press, 1919), p. 446.

for applying the quitrent principle or about the objectives it might wish to achieve through the system. The endorsement of the Cradock laws by London was a passive one. The adoption of a quitrent system made it somewhat easier for London to understand the basis of the colony's land law, and perhaps it became too easy for London to assume that it knew how the code was to be enforced.

In 1815 the new governor, Somerset, was instructed by the Colonial Office to abide by the Cradock law and to provide an annual report on all lands alienated.<sup>17</sup> Somerset sent one report<sup>18</sup> and no more. It was not until 1823 that the Colonial Secretary reminded the governor that he was to prepare an annual statement and asked for a return covering the period from 1814 to 1823.<sup>19</sup> Bathurst's dilatoriness was matched by Somerset's embarrassment in not knowing how much land had been alienated during his administration.<sup>20</sup> Bathurst's second request was answered eventually, but annual returns were seldom prepared, or if they were, their contents told little about the operation of the land code.<sup>21</sup> Thus, for the most part London remained uninformed and was willing to remain uninformed about the colony's land problems. The annual Blue Books, beginning in 1822, provided some statistics on the state of the lands, but they were a misleading source of information. The standards varied so greatly from year to year that the volumes had but marginal value. It was not until the 1840's that the Colonial Office began to insist on greater accuracy and fuller information on the landholding system at the Cape. In the meantime almost all correspondence on land policy was filed in the Colonial Office under "miscellaneous."

However, in 1819 and 1820, London decided to use the Cape land policy for her own advantage. Both interventions were related to her three chief concerns: promoting peace on the frontier, limiting the use of slaves, and trimming the colony's expenses. The first imperial order, that of reserving lands for the future support of churches and schools, was disregarded by Cape Town.

17. Bathurst to Somerset, dispatch 28, 9 May 1815, C.O. 49/10 (P.R.O.).

18. Somerset to Bathurst, dispatch 39, 23 Aug. 1815, C.O. 48/29 (P.R.O.).

19. Bathurst to Somerset, dispatch 63, 24 June 1823, C.O. 49/16 (P.R.O.).

20. Somerset to Bathurst, dispatch 112, 30 Sept. 1824, C.O. 48/65 (P.R.O.).

21. Bourke to Bathurst and enclosures, 9 Dec. 1826, Theal, *Records*, XXVIII, 413-14.

The second, that of prohibiting grants of land along the frontier to slaveowners, resulted in the virtual suspension of the Cradock system in half of the colony in 1826 and 1827.

In 1819 Great Britain's interest in the Cape took a turn for the better when parliament voted £50,000 to finance the sending of British nationals to the colony. The scheme was designed to be mutually beneficial to mother country and colony. Some of Great Britain's citizens were to be settled along the Great Fish River on the eastern border of the Cape where they were to form the first line of defense against the border tribes.<sup>22</sup> A closely settled farming population was to be wedged between the two grazing societies of the Boer and the Bantu, and it was hoped that the British emigrants would achieve what no previous government had been able to do. The success of the plan's military objectives was dependent upon the maintenance of a large population on small tracts of land. The Albany settlers were to receive one-hundred-acre plots in concentrated parcels and were to be discouraged from taking up grazing or moving off the land. While the Cape was preparing to receive its new civilian army, Bathurst and the Colonial Office decided to accept the suggestion from the Society for the Propagation of the Gospel in Foreign Parts that one-seventh of the land in the new settlement should be reserved as a future source of income for maintaining Protestant churches and schools. In return for this favor, the Society was "willing to extend to the Cape the System on which it has acted with so much success in America, providing a regular supply of Ministers & Schoolmasters, but looking, of necessity to Government for Pecuniary aid in default of the sufficiency of the Society's funds."<sup>23</sup>

However, Sir Rufane Donkin, acting governor during Somerset's stay in England, did not communicate Bathurst's order<sup>24</sup> either to the landdrost of Albany or to the surveyor who was marking off the farms for the English immigrants. Thus the Cape never had the opportunity to test the validity of the Canadian

22. The 1820 settlers have received considerable attention from others. Among the best accounts are H. E. Hockly, *The Story of the British Settlers of 1820 in South Africa* (Cape Town: Juta, 1948); Edwards, *The 1820 Settlers in South Africa*; Arthur Keppel-Jones, ed., *Philipps, 1820 Settler: His Letters* (Pietermaritzburg: Shuter & Shooter, 1960). The land claims of the settlers were not settled until 1844, illustrating once more the government's inability to act swiftly in land matters.

23. Society to Bathurst, 17 Dec. 1819, C.O. 48/50 (P.R.O.).

24. Bathurst to Donkin, 24 June 1820, Theal, *Records*, XIII, 167-68.

policy, which was fortunate for the Albany settlers, who had the almost impossible task of turning a grazing country into an area of small farms.

In 1822 the society asked Bathurst for a statement on the amount of land reserved for the church in Albany.<sup>25</sup> It was then that the Colonial Office took up its directive of 1820. Still no action was taken at the Cape, but in 1824 London's request was put in the hands of the governor's special commissioner to Albany, William Hayward, who was empowered to mitigate the charges made by the settlers against the government and to enlarge the landholdings of the bona fide cultivators. Hayward reported that it was too late to reserve land in the district, since some of the individuals had been given their titles and others had been promised additional land.<sup>26</sup> Evidently Hayward's remarks were not transmitted home.

It was not until 1831 that the Colonial Office followed up its orders of 1820 and 1822. This time it received a reply from the governor:

The reservation of lands for the purpose of securing a further provision for the Clergy, may answer perfectly, in Colonies more favored by nature than this; but here the application of the principle, even if it were still possible, would keep the greatest part of the Albany district, where a dense population is particularly desirable, in the condition of a desert for ages to come.<sup>27</sup>

The Colonial Office's experience with the clergy-reserve system, which had been extended also to Australia, had been so universally bad that London was now willing to abandon it. The Colonial Secretary announced his decision at the end of 1831:

It seems indeed to be proved by what has been experienced not only in Canada but in the Australian Colonies, that land in countries where so much remains unappropriated can only be profitably occupied by those who have the stimulus of personal and permanent interest. Hence the income derived from landed property retained in the hands of the Government for any public purpose is trifling compared to the inconvenience it occasions; the same sum raised in almost any other manner would be much less burdensome to the Colony.<sup>28</sup>

25. Rev. Anthony Hamilton to Horton, 18 May 1822, *ibid.*, XIV, 371.

26. Hayward to Somerset, 3 Aug. 1824, C.O. 204 (Cape). It was the commission of inquiry, acting upon a dispatch from London, which raised the question with the Cape authorities in 1824.

27. Cole to Goderich, dispatch 70, 5 Dec. 1831, C.O. 48/143 (P.R.O.).

28. Goderich to Colborne, dispatch 55, 21 Nov. 1831, C.O. 43/43, quoted in Riddell, "A Study in the Land Policy of the Colonial Office, 1763-1855," p. 395.



No further attempt was made to reserve lands at the Cape.

As can be seen in the case of the annual reports on land alienation and in that of the church-reserved lands, the negligence of the Cape authorities in abiding by London's orders was an important component of imperial policies. The six thousand miles separating Cape Town from its less-than-enthusiastic superior was a measurement of interest as well as of distance. The corollary of London's infrequent contact with Cape problems was the Cape's freedom to ignore and to set aside imperial decrees.

Bathurst's second intervention, even more so than the first, illustrated London's fleeting influence in Cape affairs. On 20 May 1820, Bathurst wrote Acting Governor Donkin:

In any future grants of land to be made in the District of Uitenhage [where the Albany settlement was to be located], or any other settlements either to the northward of that district or more immediately on the frontiers of Caffreland, it should be made a special condition of the grants, that the lands should be cultivated by free labourers alone.<sup>29</sup>

The instruction, coming at a time when the oceanic mails were filled with correspondence on the Albany settlers, was construed by the Cape government as applying only to the new English settlement. Donkin, a few days after receiving the instruction, separated the Albany settlement from the Uitenhage district,<sup>30</sup> and in June 1821 he sent a letter to the landdrost of the new district of Albany announcing that the inhabitants of Albany (chiefly English) were to receive land titles containing the restriction on the use of slaves in the cultivation of their lands.<sup>31</sup> He did not inform any other frontier landdrost of the Colonial Secretary's order.<sup>32</sup>

It was not Bathurst's intention that the restriction apply only to the English settlers in Albany. He assumed that all land titles in the frontier districts carried the stipulation. After two years had gone by, he decided it was time to check on the results of the prohibition on slave labor in the colony and to see if the restriction could be broadened to include domestic slaves as well as field hands.<sup>33</sup> Governor Somerset acknowledged the dispatch but did

29. Bathurst to Donkin, 20 May 1820, C.O. 48/49 (P.R.O.).

30. Commissioners of Inquiry to Bird, 22 Nov. 1824; Bird to Commissioners of Inquiry, 25 Nov. 1824, Theal, *Records*, XIX, 161, 165-66.

31. Somerset to Commissioners of Inquiry, 24 Nov. 1824, *ibid.*, p. 165.

32. Stockenstrom to Commissioners of Inquiry, 5 Aug. 1824, *ibid.*, XXII, 449-50.

33. Bathurst to Somerset, 30 Sept. 1822, *ibid.*, XV, 106-7.



nothing. Two years later, in 1824, the commissioners of inquiry, acting upon another request by Bathurst for information on the success of the slave-prohibition clause, approached the governor. Once more the Cape executive maintained that the order applied only to Albany.<sup>34</sup>

By 1825 the commissioners of inquiry were sending home reports on the colony. Three of their papers to Bathurst in 1825 made the same points: that the restriction on the employment of slaves had not been introduced into titles outside the limits of Albany; that Boers received large grants of land adjacent to the small tracts of the English settlers; and that the Boers, placed in the neighborhood of the Bantu, might be tempted to enslave the Africans.<sup>35</sup> In the same year, the first reports of the commission appointed in 1822 to investigate judicial practices in the Leeward Islands (and later in all of Britain's possessions in the Caribbean) recommended as a part of a general reform in the administration of justice that slaveowners be prohibited from holding positions as judges and law officers of the crown. The Colonial Secretary, who had been slow to tamper with existing institutions in the colonies, now drew a deeper breath and was prepared to employ a more aggressive policy to insure better treatment for the slave.<sup>36</sup> The reports from the two commissions were in the hands of Earl Bathurst when the next series of correspondence took place on the slave-prohibition clause at the Cape.

In August 1825, Somerset told the commissioners of inquiry that he intended to incorporate a part of the frontier, west of the Koonap River, into the newly formed district of Somerset and grant thousand-morgen farms to the Boers as a way to fill up the frontier line.<sup>37</sup> The commissioners asked if he intended to prohibit the use of slave labor in the new district, in accordance with Bathurst's dispatch of May 1820.<sup>38</sup> The question took Somerset by

34. Commissioners of Inquiry to Somerset, 23 Feb. 1824; Somerset to Commissioners of Inquiry, 5 March 1824, *ibid.*, XVII, 99, 127.

35. "Report of the Commissioners of Inquiry to Earl Bathurst upon the Address of the Principal Settlers in the Albany District," 25 May 1825, *ibid.*, XXI, 296-97; Commissioners of Inquiry to Bathurst, 10 Oct. 1825, *ibid.*, XXIII, 255-56; "Record of the Commissioners of Enquiry upon the Differences between Lord Charles Somerset and Sir Rufane Donkin," 24 Dec. 1825, *ibid.*, XXIV, 162.

36. Murray, *The West Indies and the Development of Colonial Government*, pp. 104, 141-42.

37. Somerset to Commissioners of Inquiry, 5 Aug. 1825, Theal, *Records*, XXII, 447-48.

38. Commissioners of Inquiry to Somerset, 20 Aug. 1825, Rh. H. Mss. Afr. t. 7 vol. 13 (Rhodes House).

surprise. For the first time the governor doubted the interpretation given Bathurst's order. Yet 182 applicants for land were moving into the district, most of them typical South African graziers possessing one or two slaves.<sup>39</sup> To prohibit these graziers from holding land in the district would be unreasonable since their compatriots along the frontier had been placed under no such slave restriction. The frontier, too, was several thousand miles long, wandering along river shores, skirting mountains, and connecting prominent landmarks in an uneven line. It was inconceivable to Somerset that Bathurst had meant his prohibition of May 1820 to apply to all of the frontier and to the older colonists who were in need of new land. The governor wrote Bathurst for an explanation. He stopped the issuing of grants in the Somerset district until he could receive a reply.<sup>40</sup>

In his answering dispatch of 9 January 1826, Bathurst claimed that his order of May 1820 was adequately worded and was to have applied to all new grants of land in the "frontier districts." He saw no reason to modify his principle, especially since the reports of the commissioners of inquiry

have produced strong doubts in my mind as to the expediency of locating in the vicinity of the caffres [*sic*] a class of persons who are neither best calculated to make the most advantageous use of the indulgence which you propose to grant to them, nor best adapted by their habits and feelings to conciliate their more uncivilized neighbours; and I must therefore request that your Excellency will pause before you finally dispose of lands which it would be more desirable to place in the occupation of other [English] individuals.<sup>41</sup>

The dispatch initiated a theme that appeared again and again in the correspondence from the Colonial Office: the Boers, graziers and slaveholders, should be kept out of the eastern and northern areas of the colony. Yet the enforcement of such a policy rested once more on the government's ability to control the alienation of land.

Major General Richard Bourke,<sup>42</sup> who assumed the duties of

39. P. G. Brink, "List of Applications for Land in the District of Somerset," 13 Sept. 1825, Theal, *Records*, XXIII, 70-73.

40. Somerset to Bathurst, dispatch 230, 1 Oct. 1825, C.O. 48/70 (P.R.O.). It is uncertain if Somerset at this point stopped the issuing of all titles in the eastern districts, as was done later.

41. Bathurst to Somerset, dispatch 233, 9 Jan. 1826, C.O. 49/19 (P.R.O.).

42. Sir Richard Bourke was appointed lieutenant governor of the eastern districts in 1825, but he served instead as acting governor of the colony from 1826 to 1828. No new lieutenant governors were appointed until 1837. Denied the permanent

acting governor upon the embarkation of Somerset, was left to wrestle with Bathurst's inflexible attitude. What did the Colonial Secretary mean by the term "frontier districts"? "Frontier" had been used by the Cape government as a synonym for the border; the term used by Bathurst logically meant those divisions of the colony which touched the border, and this included more than half the colony. Albany, Somerset, Graaff Reinet, Beaufort, and Worcester were the "frontier districts" in which land titles were to have contained the prohibition against the employment of slave labor. Would government now have to recall all titles issued since 1820? That would constitute an illegal act, but even if the restriction were included only in new titles for land in the districts, the government would be discriminating against those who had not been able to obtain titles from Cape Town prior to the receipt of Bathurst's dispatch. D'Escury explained some of the administrative problems that would result from an attempted enforcement of the ban:

There is another consideration connected with carrying of this order into effect, namely the very considerable extent of land that is illegally occupied in the Frontier Districts, particularly in Graaff Reinet and Worcester. It will in the first place prevent the illegal Occupiers from applying for Legal Titles, which is so desirable they should do, yet which, with great difficulty and much management, is only slowly progressing, and to force this object, or to dispossess the Occupiers is not practicable [*sic*], the extent of the evil is become too great to use coercion; they will therefore retain their occupancy as it were in defiance, while such lands as may be granted a source of considerable jealousy between the two descriptions of Occupiers.<sup>43</sup>

Until Bourke could get Bathurst to reconsider or modify the restriction, the acting governor suspended the issuing of all new titles in the five districts.<sup>44</sup>

In his carefully worded request to London for a re-examination of the imperial order, Bourke confessed that the Cape government

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governorship, Bourke returned to England and eventually received the governorship of New South Wales in 1831. Bourke was a military man and received a major general's commission in 1821. He was related to Edmund Burke (*D.N.B.*, II, 928-29). For a short account of his general policies at the Cape and in Australia, see Hazel King, "The Humanitarian Leanings of Governor Bourke," *Historical Studies: Australia and New Zealand*, X (Nov. 1961), 19-27.

43. D'Escury to Plasket, 4 July 1826, enclosure in Bourke to Bathurst, dispatch 42, 13 July 1826, C.O. 48/82 (P.R.O.).

44. Bourke to Bathurst, *ibid.*

was to blame for the slow issuance of land titles, and that because of its tardiness, applicants, some of whom had been waiting years for their titles, had occupied land under the faith of the government's eventual approval. To insert the clause in titles for land already occupied would result in the Boers' refusal to accept the deeds. Therefore, it was essential that this class of occupiers not be penalized by Bathurst's non-slave-labor clause. Secondly, to make the prohibition a workable policy it should be limited to the new and relatively unoccupied border lands. The acting governor suggested a zone thirty miles wide, extending into the colony from the border.<sup>45</sup>

As a temporary device to allow for the later introduction of the modified Bathurst principle along the border, Bourke ordered the 120 new graziers and farmers already living in the eastern sector of Somerset district to return to the older districts of the colony.<sup>46</sup> Hoping to create a more enlightened attitude in the Colonial Office about the character of the Boers, Bourke wrote the permanent undersecretary, R. W. Hay, that it was unlikely that the frontier farmers would enslave the Bantu. The Boers were not a peculiar class of frontiersmen but very much like their English counterparts.<sup>47</sup> Bourke's argument did not alter London's ideas, but his plea for a modification of the orders of 1820 and 1826 was accepted. Bathurst, in a dispatch framed on 30 October 1826, adopted the thirty-mile belt, following the edge of the old colonial border, but added all of Albany to the zone. The prohibition was to be strictly enforced; without it, Bathurst believed, the Boers would soon overawe their neighbors.<sup>48</sup>

The compromise policy was only partially successful. After an eight-month lapse, from July 1826 to February 1827, Cape Town began to issue titles for land in the five districts, but applicants who resided in the border areas received no relief. The thirty-mile belt could not be delineated until the colony's frontier had been marked, and that border was more a line on a map than a geographical reality. For the next nine years the surveyor general, who had assumed D'Escury's functions, asked repeatedly for funds to survey the border and to mark off the free-labor zone. The

45. *Ibid.*

46. Bourke to Bathurst, dispatch 43, 14 July 1826, C.O. 48/82 (P.R.O.).

47. Bourke to Hay, 13 April 1827, C.O. 48/109 (P.R.O.).

48. Bathurst to Bourke, dispatch 323, 30 Oct. 1826, C.O. 49/19 (P.R.O.).



money was never granted. It was not until 1835, two years after the abolition of slavery in the Empire, that the governor "dissolved" the zone and removed the distinction between the two groupings of land in the colony.<sup>49</sup> In the intervening years, Cape Town had no choice but to overlook any application for land that it felt might lie within the zone. Thus, colonists living within twenty, thirty, or even fifty miles of the unmarked border found that they could not participate in the Cradock land system or its successor. This in turn meant that the Colonial Secretary's order had no effect in limiting the practice of slavery within the colony. His actions only strengthened the practice of squatting in the east.

Bathurst's second intervention in Cape land policy came at a time when governmental efficiency was sinking to a new low. D'Escury, whose influence had been curtailed since 1823, was dismissed in 1827; the troubles surrounding Lord Somerset had not yet subsided; and the commissioners of inquiry had not yet formulated a new plan of government for the colony. The consequence of this situation was a general slowdown in the issuing of titles in 1826, 1827, and 1828.<sup>50</sup> The inclination of the Colonial Office to interfere in the colonial land system, together with its unwillingness to give land policy the attention it desperately needed, further weakened the government-sponsored land system. The time for such a decay was inopportune. As Bourke wrote in 1828: "In the Frontier Districts the Cattle Farmers have been induced to wander across the Border in quest of food or water for their increasing stock, and the attention of Government is in vain directed to the object of keeping them within bounds."<sup>51</sup>

49. See chaps. vii, pp. 115-16, and viii, pp. 128-29, below.

50. Bourke to Huskisson, separate dispatch, 19 May 1828, C.O. 48/124 (P.R.O.).

51. *Ibid.*



## CHAPTER SEVEN. THE FIRST CAPE LAND BOARD AND THE REFORMED CRADOCK REGULATIONS, 1828-34

FRESH IDEAS ALWAYS WERE IN SHORT SUPPLY IN the British administration at Cape Town. "New" policies, especially for the frontier, were often new only to the governor holding office, for there seemed to be a monotonous perpetuation of the habit of applying past solutions, whether successful or not, to new or continuing problems. Then, too, because of the definition of the government's functions used by its officials, the Cape Town regime rarely saw its own limitations and faults. The concept of government was closely identified with the personality and activities of the governor rather than with the large, restless, and underdeveloped colony. One exception—a major one in light of the potential ramifications of its recommendations—was the view of the commission of inquiry, which spent almost three years, from 1823 to 1826, questioning, exploring, and suggesting courses of action for London and Cape Town. To the commission, the government had to become a social and political reality rather than continuing as a collection of personalities in the capital city. The commission—composed of John Bigge, former West Indian judge who had conducted a similar investigation into the governorship of New South Wales in 1819; Major W. M. G. Colebrooke, who had served in the East; and (after 1825) William Blair—had as its chief objectives the increasing of the colony's revenues and the trimming away of unnecessary expenditures, while still providing the colony with a more efficient administration. This led the commission, somewhat indirectly, to an appraisal of the Cradock land system and to the formulization of a new and radical land alienation program.

The commission was handicapped by its inability to read or to speak Dutch. Its reports also suffered from lack of organization and belated transmission to England. A great deal of its time was spent in the investigation of personal complaints and charges which had aroused London's interest in the colony. While these inquiries into the actions of individuals could lead to the framing

of sound recommendations for improving the government, they could also result in action limited merely to clearing away the particular accusation. Their suggestions, which were sprinkled through voluminous reports to the Colonial Secretary, needed to be debated or at least questioned in order for the commissioners to judge the practicality of some of their ideas and for others to see more appropriate reforms or solutions. Yet the commission took its task seriously, traveled throughout the colony, and, as in the case of land policy, prepared the first significant reports on the administration of British policies in the colony.<sup>1</sup> In much of its work, the commission itself was able to overcome the orthodox methods and indifferent attitudes which had characterized the British occupation since 1795. By 1828 a number of the commission's proposals were adopted by London and the Cape Town authorities, including its recommendations for improving the administration of the Cape's lands.

The commission offered a land program that recognized the strength and extent of existing informal tenures and the weaknesses of the central government in enforcing the Cradock land code. It called for the creation of a new agency, the Cape land board, and a new official, a surveyor general, to administer its policy. However, the commissioners were not empowered to oversee the employment of their suggestions, and the new administration, falling heir to the applications for land which had not been acted upon from 1813 to 1828 and receiving new requests for grants, could not carry out the commissioners' program. The new machinery was still defective, and within a matter of months after its creation in December 1828 the land board corrupted and discarded the ideas of the reformers. It and the surveyor general's office devised and presided over their own policies through six years of existence until the governor reconstituted the two agencies

1. G. M. Theal has criticized the commission for its failure to penetrate into South African conditions: "Some of their statements, upon which be it remembered the form of the future administration of the colony was to be decided, create nothing short of amazement in those who are acquainted with the archives of the colony, documents which they, however, had neither time nor the necessary knowledge to examine." *Progress of South Africa in the Century* (London: W. & R. Chambers, 1902), p. 147. The lengthy correspondence carried on between the commission and government officials and the bulky reports transmitted home would seem to contradict Theal's observation. The commission is worthy of a detailed study; the bulk of its correspondence is in the Public Record Office (C.O. 414/1 to 414/15) and its private correspondence with Governor Somerset is now in Rhodes House, Oxford (Rh. H. Mss. Afr. s. 24).

in December 1834. The energy needed by the central administration to overcome the rudimentary system of provincial government in the colony and to remove the chaotic delay in the chain of command was not forthcoming in the period from 1828 to 1834. Too many of the characteristics of the Somerset-D'Escury years remained within the Cape Town administration after 1828 for the reformed Cradock regulations to be a successful departure from previous policies.

I. THE COMMISSION'S MAIN CRITICISM OF THE CRADOCK system was its destructive influence on the crown's revenue, but in searching for ways to obtain a greater income from the colony's lands the commissioners revealed some of the faults in the administration's procedures for dealing with land claims. Cradock had erred, they said, in allowing the conversion of loan farms to be a voluntary act. The colonists

avoided at once the expenses attending the inspection and survey, and the increased rent assessed under the new tenure . . . and the revenue . . . suffered by the payment for such lands of the original loan rent only, and by the occupation of considerable tracts without paying any rent whatever.<sup>2</sup>

The crown thus gained little from the higher rents that were to be affixed to the converted places. Moreover, the principle of basing rents in the new perpetual quitrent grants on the quality of the land was incomplete in itself; the lack of a uniform standard on which to base the rents had resulted in the time-consuming and often unproductive contests between D'Escury and the local land commissions in establishing rates. These contests had added to the confusion within the administration, to the uncertainty in the minds of the grantees, and to fluctuations in the income derived from the lands. The imprecision and heavy expenses involved in the surveying of lands also had been detrimental to the interests of the government, since neither the colonists nor Cape Town could rely upon the surveys as accurate delineations of the possessions of each. Lastly, the commission saw that the Cradock system had contributed to the practice of squatting in the colony and to the

2. "Report of the Commissioners of Inquiry upon the Finances," Theal, *Records*, XXVII, 405.

loss of future income and power to the government.<sup>3</sup> A new approach, less restrictive in principle and more functional in its operation, was needed to reverse the undesired results of the Cradock code.

Unlike Cradock and D'Escury, the commissioners in their approach to land policy recognized the pastoral sector of the colony's economy and wanted to bring it under official encouragement. All discriminatory taxes were to be swept away, and the revenue of the colony was to be drawn from a general assessment upon all lands, whether legally or illegally occupied. The squatter would be brought under colonial authority through the payment of a general land tax; yet, at the same time, he would receive an unofficial recognition of his right to the land he held. Should he desire, he could receive a formal lease from the government for any land he occupied. The lease, running for seven or ten years, would protect him from other squatters and allow him to make improvements. The lessee would be able to save the expenses of inspection and survey, since only an estimate of the amount of land he claimed would be made by a sworn surveyor and the district's civil commissioner, an official who was to assume part of the duties of the landdrost in 1828. Grazing runs were not to be limited to three thousand morgen "as the collection of the land revenue would be much facilitated by diminishing the number [of holders] and as large pasture farms might tend to the improvement of stock, and the augmentation of capital."<sup>4</sup>

The holder of the lease would be allowed to convert his holding into a perpetual quitrent grant "if the land has been stocked, and the rent regularly paid, and still more, if it should have been improved by cultivation."<sup>5</sup> But a request for conversion would come only after both the lessee and the government had obtained benefits from the leasehold. In seven or ten years time, both would be better equipped to execute the requirements for a formal deed, the lessee in paying for the necessary inspection and survey and the government in approving and drafting the title.

Although the colony would possess once again a variety of tenures, all landholdings would be subject to the same tax or rent,

3. *Ibid.*, pp. 413-18; "Report of the Commissioners of Inquiry upon Administration," *ibid.*, pp. 383-84.

4. "Report of the Commissioners of Inquiry upon the Finances," *ibid.*, p. 416.

5. *Ibid.*, pp. 415-16.



based on a standard computation of the worth of the land. The colonist was to pay 2 per cent of the value of the livestock that could be grazed on the land plus four pence per morgen for all cultivable land in the holding. The value of the livestock would be based on the market prices within each district. It was hoped that such a scale would prevent the need for readjustments and reviews in the rents, thus lessening the demands on the government's time. The assessment for squatting leases and for illegally occupied lands was to be calculated from only an estimation of the amount of land claimed by the squatter. Adjustments in the rent fixed would be made at the time of conversion. Until squatting leases could be issued and the assessments determined for all untitled land, the occupiers were to pay a rent based on the opgaaf returns recorded in the civil commissioners' office.<sup>6</sup>

The recommendations of the commission answered the demands usually voiced in young European colonies of settlement. The colonist's right of free selection would precede all other rights or obligations. Squatting would be allowed as the first step in the exercise of that right. The expenses involved in occupying the land would be kept to a minimum, and yet, since all holders would be paying a rent or land tax, the actual income of the government would be increased. Low rents and the deferment of the costs of inspection and survey would be particularly attractive to the farmers and graziers who did not have a ready contact with the markets of Cape Town. The simplified process of obtaining recognition for one's claim and the postponement of the need to issue formal titles would reduce the costs and labors of government in supervising the land alienation system. At the same time, the commissioners did not abandon the import of the original Cradock reform. In time, the colonists were to have the security of the perpetual quitrent system and a closer relationship with the government, but in order to achieve these ends the commission framed what was to be an interim program that would avoid the past embarrassments to the government.

## II. AMONG THE NEW OFFICES OF GOVERNMENT instituted as a result of the commission's reports was that of the

6. *Ibid.*, p. 418.



Cape land board and the surveyor general. The board, consisting of the treasurer, the auditor general, and the surveyor general, was to administer the granting of titles and the issuing of leases. The new surveyor general was to be both a dedicated administrator and experienced surveyor, but his tasks were to be as extensive as those assigned to D'Escury in 1814:

it will devolve on this officer to superintend the detailed surveys that will require to be made of the several divisions of the colony; to ascertain the qualifications of the surveyors; to prepare instructions and to prescribe forms for their guidance; to give his authority for their charges, after an examination and approval of their journals and field books, which should be transmitted to him; to regulate the order in which the surveys should be undertaken; to compile the materials thus collected, in his office, and with the assistance of a draftsman, to prepare a map of the colony, exhibiting the division into provinces, counties and parishes; he will receive the reports of the civil commissioners on their inspection of lands, and . . . will report to the government on their situation and resources, and on the pretensions of the several applicants for grants or leases of land. His attention will be directed to the improvement of the passes and roads, and to the measurement of the roads throughout the colony in British statute miles. . . .

Lastly it will be an important duty devolving upon the surveyor-general . . . to cause a survey to be made of the boundary of the colony, and to define the limits with an accuracy that has not been hitherto observed. . . .<sup>7</sup>

He was to have a deputy stationed in the eastern districts of the colony. Together, the surveyor general and his deputy were to prepare the agenda for the land board.

For the first time since its founding, the Cape was to have a surveyor general and an agency dealing solely with land affairs. However, the lack of sufficiently qualified personnel and of an adequate number of officers within the surveyor general's department and the multiple duties of the commissioners of the land board severely curtailed the results of the 1828 innovations. The surveyor general, Major Charles Cornwallis Michell, had been in the Royal Engineers and was qualified to execute his duties when he arrived at the Cape in 1828.<sup>8</sup> Although Michell was an indus-

7. *Ibid.*, pp. 495-96; Cape Town *Government Gazette*, 14 Nov. 1828.

8. Michell (b. 1793; d. 1851), son of a British naval officer (who was attached to the Portuguese fleet and accompanied the government in its exile to Brazil in 1807), received a military education and saw active duty as an artillery officer in the

trious servant of the crown, he was frequently too optimistic about the amount of work he could perform, and he also underestimated the costs of conducting operations through his department.<sup>9</sup> The surveyor general, too, was an unimaginative plodder who stumbled upon reform from time to time, but whose range of thought was confined. He tended to see only the immediate situation and assumed that vigorous activity in the present would eventually solve the pressing problems concerning land alienation. He seldom examined his methods; he seldom asked the government to experiment; but, unlike his predecessor, he was not a procrastinator. He would have been more effective in his duties if he had not also been appointed civil engineer and superintendent of public works in the colony. Michell was taken away from his land office to supervise road repairs, to plan the construction of public buildings, to oversee road gangs, and to account for equipment, including missing horses and stolen mules.<sup>10</sup> At times he had trouble choosing the proper letterhead under which to write,<sup>11</sup> and other officials were somewhat confused about his duties. In 1830, after being in his posts for two years, Michell asked the governor to publish a list of his titles in the *Government Gazette* because so many in the administration were "ignorant that in my Official capacity as Surveyor General, Civil Engineer, and Superintendent of Works, the same are under my legal inspection on behalf and for the interest of Government."<sup>12</sup>

The assistant surveyor general, W. Fred Hertzog, was a more practical servant than his superior. He was not stationed in the east because motives of economy forbade the division of the colony and the central government in accordance with the recom-

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Peninsula campaign. Like so many of his class after the war, Michell found himself dependent upon political appointments for his livelihood. He served as master and professor of fortifications at Sandhurst and Woolwich before receiving the appointment of surveyor general at the Cape in 1828. Unlike his predecessor, Michell was acquainted with the science of surveying and was an accomplished draftsman. He spoke and read Portuguese and French and at least spoke the Cape Dutch dialect. In 1848, he resigned his post and returned to England. *D.N.B.*, XIII, 330-31.

9. In estimating the cost of resurveying some defectively measured grants, Michell recommended the sum of £500 in 1837, but the actual cost for part of the project was to exceed £1,300. Hertzog to Bell, 21 Feb. 1839, C.O. 478 (Cape).

10. See letters from Michell to Secretary to Government, C.O. 456 (Cape).

11. One must go through all of Michell's correspondence in order to assess his actions in land matters. For example, in his letters in C.O. 374 (Cape) many important statements concerning the works of land surveyors are written under Michell's title as civil engineer.

12. Michell to Bell, 13 Sept. 1830, C.O. 374 (Cape).

mendations of the commission of inquiry. Thus Hertzog's energies were placed under those of Michell's, and both men were stationed in Cape Town. It was not until after 1835 that the two began to tour the country and to supervise personally the sworn surveyors in the remeasuring of grants already made. The absence of both men left a clerk in charge of the duties of the Cape Town office for rather extensive periods.<sup>13</sup> Additional assistants or deputies were needed in both the country divisions and Cape Town. None were added to the staff until 1839.

Until 1834 there was one clerk in the surveyor general's department, and it was his job to keep the letter files, to copy all correspondence sent to the government offices, and to prepare the titles for the governor's signature. In 1834 a second clerk was added on a part-time basis. A draftsman, who copied diagrams and classified surveys, and a messenger completed the departmental staff.<sup>14</sup> Mistakes in titles, diagrams, and reports plagued the efforts of the small staff throughout the 1830's; names of titleholders were misspelled and new titles had to be drawn up; in several instances the same deed was issued twice, while other papers were often misplaced.<sup>15</sup> A degree of confusion prevailed, too, from a continuation of the practice of housing all completed files in the colonial secretary's office. The staff in the surveyor general's office was quite typical of the Cape civil service as a whole. Work was interrupted by the multifarious duties of the superiors in the department, but usually the staff put in a twenty-five-hour week, with occasional overtime when reports had to be prepared.<sup>16</sup>

The land board met for the first time in December 1828, but it did not undertake serious activity until March 1829. It was scheduled to meet every Tuesday afternoon. More often than not the board missed its weekly meeting and met only at infrequent intervals. This was understandable since each commissioner of the board, especially the treasurer and the auditor general, had non-related responsibilities requiring his attention. The degree of

13. In 1838 the governor worried over the absence of the members and the influence such absences had on the efficiency of the department. Bell to Land Board, 30 July 1838, L.B. 99 (Cape).

14. Michell to Secretary to Government, 6 Sept. 1843, C.O. 515 (Cape).

15. Land Board to Bell, 2 May, 13 Aug. 1838, C.O. 467 (Cape).

16. The staff worked from 10 A.M. to 3 P.M. daily, Monday through Friday. Michell and Hertzog put in longer days but not on land business alone. Michell to Secretary to Government, 6 Sept. 1843, C.O. 515 (Cape).

dedication of the board's personnel is suspect, however. One commissioner, J. W. Stoll, colonial treasurer and accountant general, was discovered to have embezzled £15,000 by the time of his death in 1834.<sup>17</sup> The secretary to the board, W. A. de Smidt, was a senior clerk in the colonial secretary's office. Until 1828 he had been the only person who had prepared deeds for the entire colony.<sup>18</sup> The secretary was a careless clerk, but one who took quick offense when his work was questioned.<sup>19</sup> He failed to record properly the minutes of the meetings and to maintain the board's correspondence in an orderly manner. The state of the land board's papers is such that the researcher must use the colonial secretary's records to determine the board's actions; De Smidt's notes and undated memoranda are of limited worth.<sup>20</sup>

Correspondence between the land board and the colonial secretary's office—an indication of the board's activity—steadily declined year by year so that by early 1834 the board seems to have become completely inactive. Even after it was reconstituted in December 1834, correspondence continued to lag. From January to September 1835 not one letter was sent to the Cape's colonial secretary; two were prepared in September; but the next communication was not made until February 1836. Thereafter, the correspondence assumed a more normal pattern both in regularity and in amount.<sup>21</sup>

The land board and the surveyor general were dependent upon the colonial secretary's office for their means of communication with other departments and with individuals in the colony—a procedure which had not changed from the days of D'Escury. Applications and memorials for action in land affairs were addressed to the governor, in care of the colonial secretary's office. All requests were then transmitted to the surveyor general, who presented them to the board. The board and the surveyor general channeled all replies through the colonial secretary's office, where

17. D'Urban to Spring Rice, dispatch 57, 21 Oct. 1834, C.O. 48/156 (P.R.O.).

18. Michell to Secretary to Government, 6 Sept. 1843, C.O. 515 (Cape).

19. For one example, see Bell to De Smidt, 30 July 1838, L.B. 99 (Cape), and De Smidt's reply to Bell, 13 Aug. 1838, C.O. 467 (Cape).

20. The board's letter books and minutes are found in L.B. 2 (Cape), but the papers are not bound together. Most of them are illegible and undated. From these papers it is impossible to tell how often the board met or how many of the commissioners attended. It is also impossible to ascertain the interworkings of the board—for example, did the surveyor general act as chairman of the board, or did this duty fall upon the treasurer, who had a higher status in the colonial service?

21. Letter Books, L.B. 99 (Cape).



they were then forwarded to the appropriate department of government or directly to the individual. It is important to note that the board was not empowered to take final action on any land matter; it, as well as the surveyor general, had but the power to recommend a course of action to the governor and colonial secretary in Cape Town. Although it was usual for the governor to accept the board's recommendations, he did not do so consistently.<sup>22</sup>

Once the land board and the surveyor general's department began to operate in 1828 and 1829, the Cape executives paid little attention to the methods employed and the attitudes held by the personnel. It was not until 1834 that improvements were made; in the meantime the new agencies went unnoticed for six years. Entrusted with administering the reformed Cradock regulations, the land board with the surveyor general altered the regulations with a minimum of executive questioning.

III. THE FIRST ORDER OF BUSINESS FACING BOTH the surveyor general and the land board was the backlog of applications made during D'Escury's inspectorship. By December 1830, Michell had uncovered more than 4,500 applications which had not been acted upon during the period from 1813 to 1828.<sup>23</sup> Applications were pigeonholed in every plane of government. Looking back upon his first years in office, Michell wrote in 1841: "I found reports and diagrams accumulated to the amount of many thousands besides other arrears of work connected with lands, and all which had to be made up besides the current work of the office."<sup>24</sup> Indeed, the disposing of D'Escury's legacy tested the efficacy of the new board and surveyor general.

Yet, in the beginning, despite the number of old applications, the land board was confident that it could issue titles within a reasonable period. For this reason it rejected the commission of inquiry's suggestion that a general land assessment be levied on the squatters. The board refused to extend recognition to the

22. For example, in 1829 some of the board's recommendations for reductions in quitrent were not approved by Governor Cole, C.O. 370 (Cape).

23. Land Board to Bell, 9 July 1829, *ibid.*; Michell to Bell, 8 Dec. 1830, C.O. 374 (Cape). See also chap. v, p. 75 above.

24. Michell to Vernon Smith, 9 April 1841, C.O. 496 (Cape).



large class of graziers who were illegally occupying land or who were holding "request" places on permission of the local authority. The board argued that the loss of revenue to the state would soon be recovered by the issuing of proper perpetual quitrent titles to those who occupied government land.<sup>25</sup> In March 1828, Lieutenant Governor Richard Bourke had instructed the civil commissioners to make a provisional assessment on lands occupied with or without legal title in accordance with the recommendations of the commissioners of inquiry,<sup>26</sup> but little progress had been made by 1829 because of the difficulty of fixing a standard on which to value livestock. Now, in 1829, the board threw out the proposed system:

from the sanguine hopes we entertain that the final grants of land requested will now be speedily effected, such loss [of income to the government] can only continue for a short time. We [are] apprehensive that if an assessed rent is now claimed from applicants allowed to occupy Government Lands they will no longer be anxious for the completion of their grants, but rather endeavour to retard the same; and that if the rent fixed on final grants should exceed that now assessed, it will create much dissatisfaction, and be a source of frequent applications for reductions [and] that if such assessed rent is once received the parties will consider themselves as having acquired a right of property which it will be irksome to dispute.<sup>27</sup>

The program calling for the issuance of squatting leases was also dropped. The board, feeling that it should rely more on the spirit of the Cradock reforms than upon the innovations of the commissioners of inquiry,<sup>28</sup> insisted that land could be held only under perpetual quitrent lease. The board wrote the governor in 1829:

We further take the liberty to suggest to [*sic*] the propriety of the several civil commissioners being requested to explain fully to those persons in their districts for whom lands have been assessed and who are now in the provisional occupation of the same that they will not thereby be relieved from having such lands surveyed according to the Regulations now in force with the view to the same being granted to them on perpetual quit rent but that they will in common with all

25. Land Board to Bell, 21 April 1829, C.O. 379 (Cape).

26. Colonial Office to Civil Commissioners, 7 March 1828, L.B. 98 (Cape); Bourke to Hay, 10 Jan. 1829, C.O. 48/131 (P.R.O.).

27. Land Board to Bell, 21 April 1829, C.O. 370 (Cape).

28. Memorandum for the Board of Commissioners for Lands, Colonial Office, Cape Town, 11 Aug. 1829, L.B. 98 (Cape).

other applicants for lands, be obliged to make deposits of probable expense that will attend the inspections and surveys of the same, whenever called upon to do.<sup>29</sup>

Thus, landholders would have to undergo the expense of inspection and survey and make proper application for their lands to be granted in quitrent. The spirit of the reforms of 1828 was lost.

Although the board prepared a new application form and eliminated the detailed investigation into the applicant's personal wealth,<sup>30</sup> it did little to correct the aimless methods of the surveyors and did nothing in the way of fixing a uniform standard of measurement. It was not until 1834 that Michell took some ineffective action to

prevent abuses, check negligence and compel the surveyors to insert the features of the country comprised within the limits of each estate, instead of transmitting as hitherto a mere skeleton work with a wash of colour over it by means of which ground intended to be represented by it cannot possibly be recognized without the troublesome and otherwise unnecessary process of visiting every beacon.<sup>31</sup>

But in its zeal for quickly dispensing with applications the board insisted in 1829 that the government require all applicants to deposit money for inspection and survey two months in advance of the intended time of survey. This would insure the payment of surveyors and "will, we trust, expedite the final Grants of Land asked for."<sup>32</sup> If an applicant refused to make the cash deposit when ordered to do so by the civil commissioner, his application was to be rejected and the land was to be awarded to someone else.<sup>33</sup> The board's policy was an extension of an earlier attempt to insure that the Boers would pay for the costs of obtaining their land in quitrent.<sup>34</sup>

Governor Sir Galbraith Lowry Cole, sympathetic to the Boers,<sup>35</sup>

29. Land Board to Bell, 11 Aug. 1829, C.O. 370 (Cape).

30. Circular, Land Board to Civil Commissioners, 26 March 1829, *ibid.*

31. Michell to Brink, Acting Secretary to Government, 5 June 1834, C.O. 425 (Cape).

32. Land Board to Bell, 10 April 1829, C.O. 370 (Cape).

33. *Ibid.*, 18 March 1829, *ibid.*

34. See chap. iv, pp. 53-55, above.

35. Cole, governor from 1828 to 1833, supposedly resigned rather than execute the law for the abolition of slavery. The governor seemed to pay but scant attention to the activities of his administration. In his dispatches home, he relied upon bulky enclosures to state his problems and seldom presented clear abstractions and forceful arguments in his covering letters.

at first refused to approve the board's stand on survey. A cash outlay before service was rendered might hamper the Boer in his attempt to develop his farm or, more importantly, force him to surrender his rights to the land.<sup>36</sup> Yet the board remained firm and imposed its wishes on the governor.

From May 1829, applicants had to be prepared to deposit money for the estimated costs of inspection and survey.<sup>37</sup> The gravity of the board's policy might have been lessened if survey and inspection had promptly taken place. However, since no reforms were made in the methods employed by surveyors, the calling for advanced deposits did nothing to insure that inspection and survey would follow or that the work done would be of an acceptable standard. Scheduled surveys did not take place. Some that were made had to be repeated. Inefficiency and delay once more characterized the government's alienation of land. In 1830, applicants in the district of George were told to deposit money for pending surveys.<sup>38</sup> Some surveys were made in the next few years, but the surveyor did not send his diagrams to the surveyor general, and in 1836 it was decided that resurveys had to be made at the expense of the government.<sup>39</sup> It was not until 1837 or later that the applicants who had deposited money in 1830 received their titles. In another district, Worcester, some applicants who had paid for surveys in 1823 did not receive attention from the government until 1843<sup>40</sup> and did not get their titles until 1844. The applicant's right to reject a grant if he considered the assessed quitrent too high was curtailed by the board's insistence on prepayment. In one case an applicant declined to accept his title, but the board maintained that he had to pay for the land's inspection and survey.<sup>41</sup>

The board came to the conclusion that the only recommendation of the commissioners of inquiry which it had to follow was the policy of assessing quitrents, and even this policy was modified by 1830. The commissioners had suggested that the rents be assessed on the basis of four pence per morgen for cultivable land

36. Bell to Land Board, 5 May 1829, L.B. 98 (Cape).

37. Land Board to Bell, 19 May 1829, C.O. 370 (Cape); Cape Town *Government Gazette*, 21 May 1829.

38. Cape Town *Government Gazette*, 31 Dec. 1830.

39. Michell to Bell, 7 April, 27 Oct., 10 Nov. 1836, C.O. 445 (Cape).

40. Michell to Montagu and marginal notes, 1 May 1843, C.O. 515 (Cape).

41. Land Board to Bell, 17 June 1829, C.O. 370 (Cape).

and 2 per cent on the value of the livestock which could be grazed on the land. The value of the livestock was to be taken from current market prices within each division or district of the colony.<sup>42</sup> Once a scale of prices was prepared, the fixing of rents on individual grants would be a simple and uniform process. In 1828, Bourke had reduced the percentage of value of the livestock to 1.5 per cent, a figure considered more in line with the economic life of the interior.<sup>43</sup> The governor had asked each civil commissioner to submit a list of the prevailing prices for all kinds of livestock, but the returns did not please the land board:

We have reason to believe the prices, in some instances, are not stated with that correctness to form the Ground work of so serious an operation as that of fixing in perpetuity the rents of Lands throughout the Colony, they appearing to us to have been given in Some districts far below the Current prices obtained for Stock, whilst in others striking incongruities exist.<sup>44</sup>

The attempt to provide a standard scale was not abandoned; after making considerable inquiries into the prices of livestock in each district, the colonial secretary's office provided two lists: one for the districts connected with the Cape Town market and one for the more remote sectors of the colony.<sup>45</sup> The land board was to

42. "Report of the Commissioners of Inquiry upon the Finances," Theal, *Records*, XXVII. 418.

43. Bourke to Hay, 10 Jan. 1829, C.O. 48/131 (P.R.O.); Bell to Secretary to Land Board, 18 Feb. 1829, C.O. 370 (Cape).

44. Land Board to Secretary to Government, 17 Dec. 1829, *ibid.*

45. The table of prices was as follows:

<i>Division</i>	<i>Price per horse</i>	<i>Price per draft ox</i>	<i>Price per slaughter ox</i>	<i>Price per milk cow</i>	<i>Price per score for sheep and goats</i>
List 1:					
Cape district					
Stellenbosch					
Swellendam	£4. 0.0	£2. 0.0	£2. 7.0	£1.10.0	£3.15.0
Worcester					
Northern part of George					
List 2:					
Southern part of George					
Uitenhage	£3.15.0	£1.17.6	£2. 0.0	£0.15.0	£2.15.0
Graaff Reinet					
Albany					
Somerset					

Bell to Land Board, 5 Jan. 1830, L.B. 98 (Cape).

use the scale, but its reliability depended upon a careful inspection of the proposed grant. Such care was not always taken. In dealing with applications on file, the board discovered that the employment of the new scale resulted in rents which were either greatly above or below those suggested by the local inspection teams. Since a review of all of the old reports would cost additional time and money, the board asked the governor if it could refrain from using the new standard and "after duly weighing and combining all the circumstance" in the old reports "suggest such a rent as may appear to be fairly receivable by government and equitable for the applicants."<sup>46</sup> The government agreed, but stipulated that when the board's figures fell materially below the suggested rents of the local commissions, the board was to ask for a new inspection of the land.<sup>47</sup> A few months later, the board asked for and received permission to deviate from the new standard in the assessing of all quitrents.<sup>48</sup> It was to use its own judgment and did so.

It is impossible to ascertain in what manner the board arrived at its figures; all one can say is that on the whole the rents were much lower than those recommended by D'Escury. From time to time, especially after 1835, the board referred to the scale of prices or to the suggested rents of the local commissions, but it did not do so in each case. For the most part, the local inspection team continued to submit an estimated quitrent, although it was not required to do so; and the suggested rent may have provided a suitable guide for the board. But once the board was empowered to fix rents as it saw fit, the last of the recommendations of the commission of inquiry was set aside.

However, from 1829 to 1832, the board's chief activity was not processing old applications or acting upon new requests; instead, it spent a disproportionate amount of time on reassessing rents in titles already issued. The board found many applications for reductions in quitrents on hand when it came into existence. Quite naturally it felt it needed to act on these memorials, even though the commissioners of inquiry had not specifically included

46. Land Board to Bell, 9 July 1829, C.O. 370 (Cape).

47. Clerk of the Council to Bell, 5 Aug. 1829, C.O. 295 (Cape); Bell to Land Board, 6 Aug. 1829, L.B. 98 (Cape).

48. Land Board to Bell, 23 Feb. 1831, C.O. 390 (Cape).



the reduction of quitrents as a duty of the board.<sup>49</sup> Using its own discretion, it slashed the already established rents; reductions of 50 per cent or more were not uncommon.<sup>50</sup> The board seemed interested in fixing a rent low enough to encourage the landholder to pay it. In 1831 and 1832 more than one hundred memorials for reductions of rent were acted upon and in only one case did the board retain the former rent.<sup>51</sup> At one point the board thought it necessary to reassure the governor that it was not being irresponsible in this field:

Some [reductions] may possibly excite His Excellency the Governor's Surprise that the Sums which We have recommended as the rent in future, should be so much less than that hitherto proposed to be levied; We beg to assure His Excellency that it is after the Strictest enquiry into each particular case, and after having duly weighed the reports of the Local Authorities, that We have come to a conclusion.<sup>52</sup>

Yet, as in the period from 1813 to 1828, the reassessing of rents tended to encourage the nonpayment of arrears and to foster applications for further reductions. The new rents were made retroactive if the back rents were paid up within a reasonable (but undefined) period of time. It was not until 1836 that the government tightened up its policy on the payment of back rents,<sup>53</sup> and only then did the number of applications for reductions sharply decrease.

In a government which depended almost exclusively on written correspondence among its offices, the strain of reducing quitrents was greatly felt. While necessary in some cases, the reassessments monopolized the time the board and surveyor general could spend

49. Evidently the first completed case was presented to the governor for his approval in December 1829. See Bell to Land Board, 3 Dec. 1829, L.B. 98 (Cape).

50. For example, the following were some of the reductions made in 1832:

<i>Size of farm (morgen)</i>	<i>Date granted</i>	<i>Old quitrent</i>	<i>New quitrent</i>
2,622	1823	£4. 4.0	£2. 5.0
826	1818	4.10.0	1.15.0
2,673	1823	3. 0.0	1. 5.0
2,774	1816	7.10.0	3.15.0
2,800	1825	6. 4.6	2.10.0
2,724	1823	4.10.0	2.10.0

Compiled from Land Board to Secretary to Government, 16 Nov. 1832, C.O. 403 (Cape).

51. Letter Books of Board, C.O. 374 (Cape) and C.O. 403 (Cape).

52. Michell to Secretary to Government, 10 Dec. 1832, C.O. 403 (Cape).

53. Cape Town *Government Gazette*, 4 March 1836.

on land matters in general and benefited only those who were fortunate enough to possess titles. When the original application and reports on the grant were not available, the land board asked the civil commissioner, through the colonial secretary's office, for the necessary information. Often a new personal inspection of the land was necessary before the civil commissioner could reply. The surveyor general presented each case to the board, and once a decision was made on the new rent the secretary to the board had to transmit all papers to the colonial secretary's office for the governor's review and approval. After receiving the governor's answer, the board had to notify the applicant, the auditor general, the treasurer, and the civil commissioner. Lastly, all reports were sent to the colonial secretary's office for safekeeping. The surveyor general's office had to correct the old title and to recheck the surveys of the grant. The colonial secretary's office determined when the reduced rent would take effect.

It was not until after the bulk of old applications for reductions in quitrents was disposed of that the board began more than token activity in granting titles for land. In 1828 twenty-six titles were issued for the entire colony. In 1829 the board made fifteen grants. In 1830 the total increased to eighty.<sup>54</sup> For two years, 1831 and 1832, the board's efficiency increased greatly. In 1833, however, meeting less often, the board began to slip, and by 1834 it was making very few grants. (Table 5 illustrates the effectiveness of the board in acting upon requests for land.)

The total number of grants made from 1828 through 1834 did not amount to more than one-third of the number of applications which were on file when the land board came into existence. Since the total number of grants issued included some claims for new lands, applicants both new and old had to wait—a habit which linked the 1828–34 period with the days of D'Escury. Some districts, especially those in the east, suffered more than the rest—just as they had during the years from 1813 to 1828. For example, from 1828 to the beginning of 1832 not a single title for a plot of land in excess of five hundred acres was issued in George or Graaff Reinets, although the land board had more than 1,100 old applications on hand for land in the two districts. Graaff Reinets received

<sup>54</sup>. Cape of Good Hope Blue Books for 1828, 1829, 1830, C.O. 5970, 5972, 5973 (Cape).

Table 5. *Land alienated in perpetual quitrent in the Cape colony, 1 January 1829 to 31 December 1834<sup>a</sup>*

<i>Year</i>	<i>Number of titles issued</i>	<i>Acreage alienated</i>	<i>Assessed quitrent</i>	<i>Titles for grants in excess of 500 acres</i>	<i>Acres alienated in grants over 500 acres</i>	<i>Annual quitrent on plots over 500 acres</i>	<i>Average size of grant over 500 acres</i>
1828	26	56,790	£31.11.9	8	56,156	£24.18.6	7,020
1829	15	35,214	14.13.1	7	35,181	10.18.4	5,025
1830	80	153,038	65.16.10	20	146,943	51.13.6	7,347
1831	576	2,434,311	935.14.1½	460	2,323,278	855.13.7½	5,051
1832	407 + <sup>b</sup>	2,003,702	859. 5.4 + <sup>b</sup>	407	1,996,126	859. 5.4	4,904
1833	277	725,323	1,397. 0.0 <sup>c</sup>	165	716,661	378.17.7½	4,343
1834	60	69,245	1,477. 0.0 <sup>c</sup>	19	68,387	43.7.9	3,600
<i>Total</i>	1,441 + <sup>b</sup>	5,477,623	£4,781.11.1½ + <sup>c</sup>	1,086	5,342,732	£2,224.14.8	5,327 <sup>d</sup>

*a.* Compiled from "Statement of Number of Grants Exceeding 500 Acres each, of Crown Waste Lands, made in Quit Rent and the Number of Acres Thereby Granted from 1 January 1828 to 31 December 1840," T. 222 (Cape); Cape of Good Hope Blue Books for 1828-34 (no Blue Book was published in 1832), C.O. 5970, 5972, 5973, 5974, 5975, and 5976 (Cape); "Return Showing the Total Quantity of Crown Lands or of Land Subject to the Disposal of the Crown . . . which has been sold in each of the Colonies of Great Britain during Each Year since 1 January 1831," Great Britain, *Sessional Papers*, 1840 (510), XXXIII, 5.

*b.* Total figures are not available.

*c.* Included some grants made by purchase, such as town lots.

*d.* Average, not total.

but eleven titles for all classes of perpetual quitrent land from 1828 to the end of 1834. Somerset district received some titles in 1831, but it, too, had its land claims set aside by Cape Town. (Table 6 shows how each district fared under the first Cape land board.) In 1832 the surveyor general, who was but one of the three members on the board, wrote the governor on the depressing situation in the colony as a whole:

Many complaints having been addressed to me by Individuals stating the inconvenience they are suffering from a want of proper Title Deeds to their property, although the latter was Inspected and measured for them, and the expenses of Inspection and Measurement paid for by them many years ago—*Some even twenty years ago*, I beg to call His Excellency the Governor's particular attention to this, as Government is a severe sufferer by it . . . as in the meantime the Lands alluded to are productive of no Rent whatsoever to Government, although the occupants of the Land, far from being to blame, are themselves experiencing many Sorts of inconveniences arising from it, and, I apprehend that some of the best Farms in the Colony are so circumstanced.<sup>55</sup>

The continued lag in the issuing of titles contributed to a decline in their worth. The land board found that many were not being claimed. In 1831, Michell asked the governor to take

into his consideration the expediency of marking a fixed time by the expiration of which (from the time of the Titles being forwarded to the Civil Commissioners) Individuals should be bound to put themselves in possession of the Title Deeds of their Estates.<sup>56</sup>

No action was taken in this field by the governor, and again in 1838 the secretary to the land board complained that the colonist was content to live without a proper title to his land:

It has now become a habit with the Farmer to complain that his Title is not forthcoming than that he actually suffers from the want of it, as I have been credibly informed that there is at the present moment many Titles in the possession of several of the clerks of the Peace which still require to be taken up by the parties interested.<sup>57</sup>

The colonists' own land system, consisting of squatting and request places, had met with little discouragement from the actions of the land board and the surveyor general's department. No

55. Michell to Bell, 20 Nov. 1832, C.O. 403 (Cape).

56. *Ibid.*, 24 May 1831, C.O. 391 (Cape).

57. De Smidt to Bell, 13 Aug. 1838, C.O. 467 (Cape).

Table 6. *Distribution of perpetual quitrent tiles by districts, 1 January 1829 to 31 December 1834<sup>a</sup>*

District	Tiles issued for grants under 500 acres								Tiles issued for grants over 500 acres							
	1828	1829	1830	1831	1832 <sup>b</sup>	1833	1834	Total <sup>b</sup>	1828	1829	1830	1831	1832	1833	1834	Total
Cape	10	0	25	28	—	43	26	132	0	0	0	51	39	18	3	111
Stellenbosch	2	1	25	33	—	13	1	75	2	1	12	74	35	17	4	145
Worcester	1	2	5	10	—	12	4	34	6	0	7	79	91	6	0	189
Swellendam	0	2	0	25	—	11	2	40	0	4	1	97	111	48	3	264
George	0	1	0	0	—	17	0	18	0	0	0	0	110	0	2	112
Uitenhage	2	0	1	18	—	5	0	26	0	1	0	76	9	21	2	109
Albany	2	1	2	0	—	9	2	16	0	1	0	6	8	54	5	74
Somerset	0	1	1	2	—	0	0	4	0	0	0	77	4	0	0	81
Graaff Reinet	1	0	0	1	—	2	6	10	0	0	0 <sup>c</sup>	0	0	1	0	1
Total	18	8	59	117	—	112	41	355	8	7	20	460	407	165	19	1086

<sup>a</sup>. Compiled from Cape of Good Hope Blue Books for 1828–34; C.O. 5970, 5972, 5973, 5974, 5975, and 5976 (Cape); “Statement of Number of Grants Exceeding 500 Acres each, of Crown Waste Lands, made in Quit Rent and the Number of Acres Thereby Granted from 1 January 1828 to 31 December 1840,” T. 222 (Cape).

<sup>b</sup>. Total figures are not available.

<sup>c</sup>. One grant was made in 1830 to the church warden of Colesburg.



doubt land was bought and sold under no other claim than the right of occupation. In 1835 the government admitted that it could not collect its traditional transfer tax on land sales until after a deed had been issued by Cape Town.<sup>58</sup> The central government was not yet an equal participant in the Cape's alienation system.

Thus, it can be concluded that under the reformed Cradock regulations as administered in the period from 1828 to 1834 the expectation of receiving a government-recognized grant was slim. For some of the colonists, moreover, the expectation did not exist at all. Bathurst's slave-free zone circling the colony's frontiers in a thirty-mile-wide strip<sup>59</sup> never had been delineated. Applicants in the general area of the colony's borders could not have their memorials for land acted upon until the border and the zone were surveyed. Try as he may, the surveyor general could not get the government to undertake the survey of either of these zones nor could he get it to modify the Bathurst provision so that titles could be issued. In 1832, Michell asked the civil commissioners to estimate the distance of memorialized plots from the acknowledged frontier, but he met with no success.<sup>60</sup> Later in the year he appealed to the governor:

I beg leave to reiterate what I have before said that we have as yet no defined Boundary on the North and that it must therefore be very difficult to determine whether Lands applied for are or are not in the Colony, whether Crimes (in those regions) are committed within or without the Colony—whether certain Boors [*sic*] can, or cannot claim a right to protection from the Colony. A survey would determine all this besides affording an intimate acquaintance with all Lands as yet unoccupied and the quality of such as are already occupied but not granted, facilitating thereby an equal assessment of Quit rents.<sup>61</sup>

After receiving the news that Great Britain's parliament had abolished slavery in the Empire, Michell in 1834 renewed his attempt to get the frontier graziers and farmers eligible for land grants. Since slavery was no longer an issue in the colony, the surveyor general asked permission to deal with all land claims in the zone. The matter was turned over to the Cape's attorney

58. Cape Town *Government Gazette*, 27 Nov. 1835.

59. See chap. vi, pp. 90–94, above.

60. Michell to Bell and marginal comments, 14 Sept. 1832, C.O. 403 (Cape).

61. *Ibid.*, 6 Dec. 1832, *ibid.*

general, who argued that the slave prohibition would have to be included in those grants "until there be not a slave in the colony & perhaps not even then."<sup>62</sup> His opinion was accepted by the governor.

In its administration of land policy, the land board with the surveyor general had failed to extend recognition to the squatters and request-place holders, to allow a leasehold system to fill the void in government action, to improve the system and speed of surveying, and to obtain permission from the governor to issue grants to all colonists. Every major recommendation of the commissioners of inquiry was weakened by persons who, it appears, were too committed to the traditional attitudes of the Cape government and too indifferent to the real needs of the colonists to offer any effective alternative. The board's insistence on pre-survey payments and on the drafting of quitrent titles to show land ownership, coupled with its disposition to devote so much of its time to the reassessing of quitrents in titles already issued, did little or nothing to eradicate the great time lag in the granting of titles. An applicant who had not received his deed during D'Escury's term of office did not find relief in the period from 1828 to 1834. In 1834 there were still hundreds of memorials on which no action had been taken, and in the same year the board had all but ceased to meet.

IV. IT IS IMPORTANT TO STRESS THAT THE LAND board and the surveyor general abided by their own interpretations of the Cradock land system and the reformed regulations of 1828 and did not adopt any other land code in the period from 1828 to 1834. It is true, however, that on 17 May 1832 the Cape Town *Government Gazette* announced that henceforth the colonial land system was to operate under the spirit of the Ripon regulations, framed by the Colonial Office.<sup>63</sup> London's code, which sought to standardize land systems in Canada, Australia, and South Africa, was received in the colony in January 1832. As interpreted by the governor, the imperial instructions prohibited the alienation of land except by public auction at an upset price.

62. Michell to Brink and marginal comments, 12 June 1834, C.O. 425 (Cape).

63. See chap. ix, pp. 150-52, below.

No longer would grantees receive free grants of land with an assessed perpetual quitrent; they were to pay a "fair price" for the land and were to obtain only land that the government wanted to sell.<sup>64</sup> But the Ripon regulations were not enforced in 1832, 1833, or in any year thereafter until 1843!

There was no correspondence between the land department and the governor concerning London's new orders or the *Government Gazette* publication of May 1832. None was necessary since the land board and the surveyor general were still wading through the old quitrent applications.<sup>65</sup> The government announcement recognized this fact by stating that all applications for grants made prior to 9 January 1832, the date on which the Ripon regulations were received, would be dealt with on the basis of the existing law.<sup>66</sup> The land board and the surveyor general overlooked all other sections of the publication.<sup>67</sup>

All grants of land in the 1830's, with the exception of a few, such as town lots and gratuitous grants, were made in perpetual quitrent without first being sold at public auction at a minimum upset price. There was no adequate machinery in existence to operate under any code other than that of the Cradock regulations. The proclamation of 1832 offered no threat to the existing land system; the year 1832 was not important in South African land policy. However, the backlog of applications was.

V. IT WAS CHIEFLY BY CHANCE THAT THE FIRST Cape land board came to an end in 1834. Since 1833 it had been meeting less frequently. The treasurer and the auditor general had but a minor interest in land matters, and the surveyor general, who was burdened with other responsibilities, accepted an inactive board with little or no comment. The Cape executives, too, were not concerned with the board's declining activity. Reform did come about, however, as a result of the death of one of the board's members and the reshuffling of government offices.

64. See chap. ix, p. 151, below.

65. In the 1840's, when another attempt was made to standardize the Cape's land practices in accordance with London's philosophy, the land board and the surveyor general carried on extensive correspondence with the governor and loudly protested the changes. (See chap. x, pp. 163-70, below.) The same would have been true in 1832 if the Ripon regulations had been enforced.

66. Cape Town *Government Gazette*, 17 May 1832.

67. Michell to Craig, Secretary to Government, 11 March 1842, C.O. 508 (Cape).

In August 1834, J. W. Stoll, treasurer and accountant general, died. The new governor, Sir Benjamin D'Urban,<sup>68</sup> had been strongly advised by the Colonial Office to reduce the Cape's expenditure.<sup>69</sup> At least in his early years at the Cape, D'Urban was inclined to pay heed to the desire for frugality.<sup>70</sup> The death of Stoll and the resulting disclosure that he had taken over £15,000 from the treasury was embarrassing for the governor.<sup>71</sup> In appointing a successor, D'Urban consolidated a number of government offices as a means of reducing the costs of the colonial service. J. G. Brink, who was Acting Secretary to Government, was named treasurer, accountant general, and registrar of deeds. He was also to be a commissioner on the land board. The second commissioner on the board, the auditor general, also had his duties increased.<sup>72</sup>

The land board, although it had escaped D'Urban's reshuffling, was obviously hurt by the consolidation of office personnel. From July to December 1834, the board evidently did not meet at all. In December, perhaps as a result of Brink's urging, D'Urban decided to remove the treasurer and the auditor general from the board and to raise to membership the secretary to the board and the assistant surveyor general. He also intended to name still another commissioner at a future date.<sup>73</sup> Despite his decision to add a fourth member to the board, it appears that the governor was more concerned with limiting the additional duties placed on the treasurer and the auditor general than with improving the board at this time.

London warmly endorsed the governor's retrenchment of officials but wanted more. The Colonial Secretary, Lord Aberdeen, thought three commissioners on the land board were more

68. D'Urban, one of the most controversial governors of the Cape, served from January 1834 to January 1838. A veteran of the Napoleonic wars, D'Urban had been lieutenant governor of British Guiana and of Barbados before receiving his Cape appointment. Dismissed in disgrace in 1838, D'Urban stayed in the colony until he was appointed commander-in-chief of the troops in British North America in 1846. An excellent survey of one aspect of D'Urban's administration has been made by L. J. Engels in "Sir Benjamin D'Urban's Handling of the Frontier Problems, 1834-1836" (unpublished Master's dissertation, University of Cape Town, 1936). For a broader view of D'Urban and South Africa's problems in the same period, see Galbraith, *Reluctant Empire*, pp. 28-97.

69. Stanley to D'Urban, dispatch 4, 8 Nov. 1833, C.O. 49/25 (P.R.O.).

70. D'Urban to Stanley, dispatch 4, 31 Jan. 1834, C.O. 48/154 (P.R.O.).

71. D'Urban to Spring Rice, dispatch 57, 21 Oct. 1834, C.O. 48/156 (P.R.O.).

72. Cape Town *Government Gazette*, 3 Aug. 1834.

73. Bell to Land Board, 11 Dec. 1834, L.B. 99 (Cape).

than enough; a fourth should not be appointed, and whenever De Smidt, secretary to the board, resigned or retired, his place was not to be filled. Downing Street hoped that the new land board would obtain more revenue for the paying of the Cape's bills, and it asked the governor to follow the board's activities with more interest.<sup>74</sup>

The governor's action in removing the treasurer and the auditor general resulted in a board that was better able to fulfil its purpose. The reform of 1834 was to be more significant than any other action taken in land policy since the British occupied the Cape. The second Cape land board was a new institution—an agency solely within the surveyor general's office. Now, at long last, the Cape was to have a land department. Once more an opportunity arose for the colony to review its existing practices and to undertake changes. In 1813 the success of the Cradock regulations was made dependent upon one man, Charles D'Escriy, and he failed. In 1828 the success of the reformed Cradock regulations was dependent upon the Cape land board, and it disintegrated. The surveyor general, appointed in 1828, was given full control over the Cape's land administration in December 1834. The land board was now made up of members from his department. A staff of professionals was allowed to act on its own; its first order of business would be to make the grants which had not been made during the past twenty years.

74. Aberdeen to D'Urban, dispatch 36, 11 April 1835, G.H. 1/21 (Cape).



## CHAPTER EIGHT. THE OPERATION OF THE CAPE LAND DEPARTMENT, 1835-44

IN THE PERIOD FROM 1835 TO 1844, THE SECOND CAPE land board and the surveyor general's office emerged as a recognizable land department that was more energetic and more professional in its approach to the administration of land policy than any earlier governing agency. The land department's reforms were in the administration of policy, rather than in the implementation of new principles. Some of the more haphazard features in the alienation of land were eliminated and concrete progress was made in the clearing up of the applications amassed during the days of D'Escury and the first Cape land board. The progress made in the granting of titles after 1835 was due chiefly to the fact that the personnel in the surveyor general's office were in control of the land board. As a result of D'Urban's reconstruction of the board in December 1834, the separate identity of each agency was replaced by a new common vitality.

New regulations were framed and imposed on the sworn surveyors; new techniques were employed in handling requests for land; some of the restrictive provisions of the colony's land codes were repealed; and, at last, additional staff were added to the land department. Yet a number of problems continued. More reform was needed in surveying practices, greater speed was required within the department, and additional regulations were needed to insure intra-governmental co-operation. In 1844 there were still applications for land made prior to 1832 which had not been acted upon. Squatting and the request-place system continued as major problems.

In 1844 much of the freedom and immunity enjoyed by the Cape as its own maker of land policy was removed when London successfully imposed on the colony, against the will of the land department, an imperial land code. The change in the land law in 1844 hampered and in some instances rendered useless the administrative machinery which had been perfected from 1835 to 1844. By 1844 the Cape had equipped itself to execute the Cradock

regulations of 1813 and the reformed regulations of 1828. In that year it had to begin again.

I. MAJOR CHARLES CORNWALLIS MICHELL HAD been slow to discover ways of improving the Cape's surveying system. From 1828, the year he arrived as the Cape's first surveyor general, to 1834, he did little to modify the regulations for the surveying and diagraming of land. In dealing with memorials for grants, he found that more and more of the old applications could not be approved due to the inept drawings submitted by the surveyors. In 1834 he began to explore the possibility of raising the quality of the surveys. Gradually he placed one reform on top of another so that by 1844 the sworn surveyors were submitting more accurate reports to the land department.

Since the days of the Dutch East India Company's rule, a candidate for the position of sworn surveyor had to be personally examined before he could be employed by the government. The examination was an ill-suited test of the applicant's ability. A scant knowledge of geometry, a talent for drawing angles, and a readable hand were the criteria used for certifying the sworn surveyors.<sup>1</sup> Seldom were the men asked to submit a sample of their work. Since 1828, Michell had been in charge of examining applicants, but he, too, continued the old standards.<sup>2</sup>

In 1834 he decided that he could improve the surveys by asking the civil commissioners of the districts to refuse to pay surveyors for work executed until he had approved a report on each survey and diagram.<sup>3</sup> His circular to the districts did little to modify habits long since established. As long as the civil commissioners were included in the land administration and were responsible for the collection of survey deposits and for the payment of the surveyors, the district officers possessed the right to interpret any Cape Town order. Michell's plea had to be renewed in 1836,<sup>4</sup> and even then the civil commissioners continued to act on their own.<sup>5</sup>

1. Letter, enclosures, and marginal notes, Melvill to Alexander, 11 Jan. 1813, C.O. 53 (Cape); *Report of the Surveyor-General on Land Tenure*, pp. 102-3, 110-20.

2. Michell to Brink, 12 May 1834, C.O. 425 (Cape).

3. *Ibid.*, 3 June 1834, *ibid.*

4. Cape Town *Government Gazette*, 26 Feb. 1836.

5. Hertzog to Bell, 2 Oct. 1839, C.O. 478 (Cape).

Later in 1834, Michell realized the obvious: surveying standards could be raised only by the surveyors. They had to be tested in the field. Although Governor D'Urban approved the inclusion of a field examination for all new applicants,<sup>6</sup> the reform came at a time of administrative retrenchment; new members of the civil service were not wanted.<sup>7</sup> There was also little need for more surveyors until the land board began to act with greater speed on the requests for land. Michell's change in the scope of the examination given to candidates would take years to produce any noticeable improvement.

By 1836 the board had examined more of the applications for land made prior to 1832, and the members had found that scores of surveys would have to be remade. Of course, an applicant could not be charged twice for the same survey. Michell, struggling with this problem, decided that all practicing sworn surveyors in the colony should be re-examined in order to test their practical knowledge of the science. The governor agreed.<sup>8</sup> For the first time in the colony's history, a standard examination was administered to a portion of the civil service, and a concern was shown for competency in office.<sup>9</sup>

Since the government was finding it necessary to schedule extensive resurveys at its own expense and since it, too, had been troubled on a number of occasions by violations of public trust by its servants, Michell, with the sanction of the governor, insisted that those surveyors who passed the examination post a bond of £400, cosigned by two reputable colonists, to guarantee the accuracy of their work. The sworn surveyor pledged, in posting his bond, to undertake without cost to the government the remeasurement of lands and the preparation of new diagrams if his work was rejected by the surveyor general's office.<sup>10</sup> The measure also would circumvent some of the independent powers of the local officials in land policy.

6. Michell to Brink, 12 May 1834, C.O. 425 (Cape); Cape Town *Government Gazette*, 23 May 1834.

7. Stanley to D'Urban, dispatch 4, 8 Nov. 1833, C.O. 49/25 (P.R.O.); D'Urban to Stanley, dispatch 4, 31 Jan. 1834, C.O. 48/154 (P.R.O.); Michell to D'Urban, 4 July 1836, C.O. 445 (Cape).

8. Cape Town *Government Gazette*, 26 Feb. 1836.

9. Reports on the examinations held in 1836 and notes by Michell and Hertzog are found in C.O. 456 (Cape).

10. Michell to Bell, 7 April 1836, C.O. 445 (Cape); Cape Town *Government Gazette*, 26 Feb. 1836.

The new standard examination and the bond insured that the quality of surveys would be improved. Thus, new applications were handled in a more efficient and economical manner. Yet the progress made in raising the standards of the Cape's surveying system in 1836 implied only that fewer grants of land had to be resurveyed after 1836. In 1857, after additional reforms had been introduced into the Cape's surveying practices, one out of every four surveys still had to be rejected because of errors made by the surveyors.<sup>11</sup> Michell contributed to the continuation of the imperfect system by his failure to provide a standard unit of land measure for the colony. New surveyors measured their chains against those used by other surveyors. The Cape foot, supposedly based on the Rhyneland foot, developed its own informal length.<sup>12</sup> Since surveyors were not required to record the metrical value of their measurements, all diagrams were but coarse instruments in the recording of land grants.<sup>13</sup>

Little could be done to bring order out of the inadequate surveys and diagrams made before 1836. In a rare executive action in 1836, Michell dismissed a surveyor who had not submitted diagrams for loan places in George district which he had measured five years before.<sup>14</sup> The dismissal meant that government had to pay for the drafting of new diagrams and that the applications would have to be neglected until the governor could find the money. An outstanding case of the slipshod practices of some surveyors was that of one Azerond. From 1817 to 1827, Azerond examined 140 grants for which he was duly paid by the district landdrost. His work was so erroneous that all of his surveys fell under suspicion in 1836.<sup>15</sup> Before the 140 memorialists could secure their titles, the surveyor general had to ask the governor for an appropriation. Twenty of the applicants had their lands re-measured in 1839 at a cost of £334 to the government.<sup>16</sup> The other 120 had to wait for a few more years.

One technique which could be effective in dealing with some of

11. *Report of the Surveyor-General on Land Tenure*, p. 124.

12. Hertzog to Michell, 14 Feb. 1844, in Cape of Good Hope, *Report of the Commissioners for the Purpose of Determining the Unit of Land Measure within the Colony*, pp. 12-13.

13. *Report of the Surveyor-General on Land Tenure*, pp. 119-20.

14. Michell to Bell and marginal notes, 10 March 1836, C.O. 445 (Cape).

15. Land Board to Bell, 26 April, 16 Aug. 1836, *ibid.*

16. The range of discrepancy between Azerond's surveys and the new surveys was large. For example:



the applications requiring corrective surveys was that of sending out a surveying commission to a district. Both the land board and the surveyor general began the practice of classifying applications for land on the basis of the district or ward in which the land was located. Then, both agencies concentrated on a particular district to dispense with as many of the outstanding claims as possible before selecting another district or ward with a high number of applications. If approved by the governor and if money were allotted for the project, the surveyor general or assistant surveyor general would supervise a team of surveyors in the district. After 1836 the use of the inspection team steadily increased, and Michell was encouraged by the governors to employ the method.<sup>17</sup> In spare moments the surveyors would make inspections and surveys of lands recently applied for. The commission system tended to quicken administrative procedures and to limit, too, the role of the local official in processing claims. In 1839, Michell received London's permission to add another assistant surveyor general to the department,<sup>18</sup> and the new assistant, Charles Bell, spent most of his time directing resurveys in the eastern division of the colony.<sup>19</sup>

Nevertheless, a surveying commission took time to organize,<sup>20</sup> frequently cost more than originally estimated by Michell,<sup>21</sup> and did not always produce the desired results.<sup>22</sup> On one occasion

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Case	<i>Morgen in plot as measured by Azerond</i>	<i>Morgen in plot as measured in 1839</i>
1	3,492	1,632
2	6,492	7,228
3	5,253	9,954
4	16,532	2,546
5	8,923	10,158
6	5,878	10,938

Compiled from Hertzog to Bell, 2 Oct. 1839, C.O. 478 (Cape).

17. Michell to D'Urban, private letters, 4 July, 27 Sept. 1836, C.O. 445 (Cape); Michell to Bell, 7 Dec. 1837, C.O. 456 (Cape); Bell to Land Board, 30 July 1838, L.B. 99 (Cape).

18. Michell to James Stephen, 7 June 1839, enclosure in Normanby to Napier, dispatch 45, 29 June 1839, G.H. 1/26 (Cape).

19. *Ibid.*; Michell to Acting Secretary to Government, 15 Oct. 1841, C.O. 496 (Cape).

20. Michell to Bell and marginal comments, 10 Nov. 1836, C.O. 445 (Cape); 16 Sept. 1837, C.O. 456 (Cape); 11 Feb. 1840, C.O. 487 (Cape).

21. *Ibid.*, 16 Sept. 1837, C.O. 456 (Cape); Hertzog to Bell, 21 Feb. 1839, C.O. 478 (Cape).

22. A commission under Hertzog, which was sent into George district in 1837, was suspended by Michell because its members conducted themselves "in such a way as



Michell cancelled an inspection visit to Somerset because he would not have time to complete all resurveys, and what work he and the commission could do

towards remedying so many grievances would give so little hope of relief that their [the Colonists'] dissatisfaction would rather be increased than allayed. . . . for that on the news of my arrival being spread, I should soon be Surrounded by hundreds of complainants who would witness the Departure of an Officer in my situation with great distrust.<sup>23</sup>

An enlarged commission would have to be sent when and if the government could afford it. The sending out of a commission, an action designed to remove some of the long-standing claims of the colonists, was first and last dependent upon administrative convenience. The action helped in the processing of claims, but it did not deal with all of the applications.

Since traveling expenses formed a large proportion of the costs of an inspection commission, few surveying teams were sent into those districts farthest from Cape Town. Michell recognized the plight of the frontier settlers and urged visits to the more remote quarters of the colony in order to restore "confidence and tranquillity in those parts of the colony, by convincing the Farmers of the earnestness of Government to have [inaccurate surveys] righted."<sup>24</sup> Districts in which there were few demands for resurveys or in which no previous action had been taken before 1836 also benefited little from the commission inspection system. For example, memorialists living in the Cape district found slight relief. Michell wrote to the governor about the claims in the district in 1837:

there are Several Farms which were Surveyed and paid for 15 or 20 years ago and respecting which, no report or Diagram has ever been transmitted to my Office. Government is in the meantime a loser in more ways than one to say nothing of the insecurity of tenure of the parties and their consequent dissatisfaction. One of these stated to me his determination to address His Excellency personally on Monday last, and I could only express to him my regret that with my hands full

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to produce & promise more evil than good results. . . . They are said to be insubordinate, meddling [*sic*], . . . [and] leading the farmers to carp at every act of the Government regard[ing] their lands." Marginal note, Michell to Bell, 23 April 1837, C.O. 456 (Cape).

23. *Ibid.*, 6 Sept. 1837, *ibid.*

24. *Ibid.*

of Surveying and Engineer work I could afford him no help, neither could he hope for any from the Officer now in charge of the Department.<sup>25</sup>

When surveyors went into a district they often found that before they could begin their tasks they had to resurvey land granted earlier. By a proclamation of 1814, which was reissued in 1830, proprietors were required to erect and maintain beacons marking the limits of their properties.<sup>26</sup> Surveyors complained that they could not find the beacons and were forced to remeasure land already granted.<sup>27</sup> Since there were few checks on his activities, the individual landowner had little reason to abide by the regulation; thus, those who had legal titles did little to assist the government's work. The problem became more intense as Michell discovered that some beacons were placed beyond the limits of the original grants.<sup>28</sup> The misplaced beacons could have been the result of the inaccurate work of earlier surveyors or the result of deliberate attempts by the landowners to increase their holdings. Michell was inclined to think that the colonists had moved their beacons since "*very few cases of the Beacons [are] found to comprise less ground than the Diagrams.*"<sup>29</sup> "Portable" beacons were to remain a natural product of a surveying system which had not kept up with the initial occupation of the land.

In spite of the shortcomings of the surveying commission system and the existing surveying regulations and in spite of the practices of the colonists, the reforms made by Michell and the new energy in the land department resulted in the issuing of more land titles than in any previous period. From 1835 to 1840 more than two thousand deeds for farms in excess of five hundred acres were drawn up, whereas from 1828 to 1834 only one-half that number had been made.<sup>30</sup> The amount of land surveyed increased almost sixfold over the previous period. From 1828 to 1834 about 5.5 million acres had been legally transferred to applicants; from

25. *Ibid.*

26. Cape Town Government Gazette, 23 Dec. 1814, 19 Nov. 1830.

27. Michell to Bell, 12 Dec. 1829, C.O. 370 (Cape).

28. In one case reported by Michell in 1830 the original grant contained 2,500 morgen, but the beacons as erected enclosed a grant of 4,800 morgen. *Ibid.*, 12 Feb. 1840, C.O. 487 (Cape).

29. *Ibid.*

30. "General Report of the Colonial Land and Emigration Commissioners," 2 April 1844, Appendix 15, p. 44.

1835 to 1844, Michell's surveyors measured over 29 million acres.<sup>31</sup> The improvement seems even more remarkable when it is considered that Michell was more of a plodder than an adventurous servant of the crown. All of his reforms were piecemeal efforts.

II. THE PROGRESS IN THE GRANTING OF TITLES WAS not due solely to Michell's changes in surveying practices. Equally important were the attitudes and policies of the land board and the colonial executives, both of whom recognized the need for greater activity to catch up with the old requests for land.

The second land board, composed of the surveyor general, assistant surveyor general, and the secretary to the board, became so much a part of the surveyor general's department that its policies complemented the actions of the surveyor general. Unlike the first land board, which seemed to be a disconnected agency of the land administration, the second board showed a strong, if not at times a defiant, will to act as the official voice of the personalities in the surveyor general's department. W. A. de Smidt, secretary to the board since 1828, was promoted out of the colonial secretary's office, where he had been first clerk, and was entrusted with only land board business after 1835.<sup>32</sup> Although he was not officially within the surveyor general's department, De Smidt acted as a substitute for Michell and Hertzog when they were out of the capital. The close association of the three, all of whom shared the same office, meant that land board business could be acted upon at any time. No longer did the board's affairs have to wait until its members completed their non-related tasks. The three individuals on the second board seem to have gotten on well with each other: at least their correspondence reveals no clashes, and Michell defended De Smidt and Hertzog as capable servants of the government.<sup>33</sup>

The second land board possessed two other advantages: it did

31. See p. 132, below.

32. Michell to Montagu, 8 Sept. 1843, C.O. 515 (Cape).

33. *Ibid.*; Michell to Craig, 30 March 1842, *ibid.* Unfortunately the written records of the second board are in even more slovenly a state than those of the first board. One must use the letter books of the colonial secretary's office in order to obtain information on the official actions of the board. The increased number of letters sent by the board after 1836 is indicative of a more vigorous body. Michell acted as the presiding officer, but by 1838 it was clear that the board could take action when only one member was present. See Bell to De Smidt, 30 July 1838, L.B. 99 (Cape).

not have to deal with a large number of requests for reductions in quitrents in titles already issued, and it did not have to exist under some of the restrictions which had prevented the first board from acting on claims for new land. Both advantages stemmed from a newfound dedication on the part of the Cape's governors to expedite land matters. The board was able to consider its major function to be that of recommending the issuing of titles and of fixing quitrents for the new grants.

Although no major changes were made in the mode of assessing quitrents—the board used its own discretion and occasionally referred to the list of prices drawn up in 1828–30 or to the recommendations made by the local inspection committees<sup>34</sup>—the board was able to devote more of its attention to the applications for land, chiefly since it did not have many requests for reductions in quitrents. The board did act on some quitrents and followed the first board's low rent policy,<sup>35</sup> but the requests for reductions did not monopolize its time. No doubt the low rents of the first board lessened the demand for review, but Governor D'Urban's firm proclamation of March 1836 helped too. Disgusted by the mounting arrears from quitrent proprietors who had had their rents reduced, D'Urban, without consulting the board, ordered that all arrears were to be paid up at the former and higher rents before he would sanction the payment of rents at the figures set by the land boards in their reviews. Also, in the future no reduction would be recognized unless the applicant paid up all of his arrears within a "reasonable time" following action by the board.<sup>36</sup>

The board was aided by D'Urban's order of May 1835, allowing it to issue titles for land in the frontier zones of the colony without having to determine if the land was within the slave-free zones created by Bourke and Bathurst. Slavery had ceased in the colony, and this was reason enough for D'Urban to decide to issue titles without the stipulation prohibiting the employment of slaves in grants within thirty miles of the ancient borders of the colony.<sup>37</sup> To D'Urban the clause was discriminatory: "The Farmers certainly have an idea that the introduction of the clause tends to

34. See chap. vii, pp. 107–9, above.

35. In one instance the board recommended a rent lower than that suggested by the local inspection team. Land Board to Bell, 21 June 1839, C.O. 478 (Cape).

36. *Cape Town Government Gazette*, 4 March 1836.

37. For creation of the zone, see chap. vi, pp. 90–94, above.



lessen the value of the land granted; and they have a very great objection to any restriction not usually and generally enforced in Grants in other parts of the Colony."<sup>38</sup> Perhaps to avoid the possibility of London's interference in his action, D'Urban evidently did not communicate his order home. Now all colonists within the colony had an equal opportunity to receive grants from the government, something which had not been true since 1825. Although the frontier line had yet to be surveyed, the lack of geodetic surveys was no longer a serious handicap to the applicant for land.

Another restriction was removed in 1838 and 1839. According to the Cradock regulations of 1813, the holder of a loan place could not obtain title to any new land until his place had been converted into perpetual quitrent. Many loan-place holders had applied for conversion and for new grants to be made in perpetual quitrent; but if, on the date of application for new land, the conversion had not taken place, the request was ignored. In 1823 only 443 of the colony's 2,206 loan farms had been converted; 1,365 additional loan-place holders had applied for conversion and were waiting for government action. Thirteen years later, in 1836, only 706 conversions had been made, leaving 1,500 loan farms in their original state.<sup>39</sup> The holders of loan farms, even if they had applied for conversion, were not legally entitled to claim new land. In 1838 the land board brought the matter to the attention of the new governor, Sir George Napier.<sup>40</sup> The board asked and received permission to consider a request for conversion as meeting the spirit of the Cradock law, since it was the government's fault that many of the conversions had not been made.<sup>41</sup>

Michell's improved surveying techniques and the board's more orderly approach to requests for conversions resulted in a reduction in the number of loan farms, so that by the end of 1839 there

38. Hertzog to Bell and marginal notes by D'Urban, 26 Feb. 1835, C.O. 435 (Cape).

39. Cape of Good Hope Blue Book for 1836, C.O. 5978 (Cape).

40. Napier, another veteran of the Peninsula campaign and a professional soldier, ruled the Cape from January 1838 until March 1844. He continued the close relationship with the land department which had been begun by D'Urban. After leaving the Cape, Napier was offered the command of the Sardinian army by King Charles Albert, but he turned down the offer and retired to France and Switzerland. His Cape appointment was his only civilian position. He died at Geneva in 1855. *D.N.B.*, XL, 57-58.

41. Land Board to Bell and marginal notes, 26 July 1838, C.O. 467 (Cape).



were only 826 unconverted farms in the colony.<sup>42</sup> Since loan-farm tenure was becoming a minority system and since many holders were occupying land purely on the basis of occupation, the board decided that all loan-farm holders should be urged to take out proper titles for adjacent land; the board members also asked the governor to cancel the old Cradock stipulation that conversion was necessary in order for a loan-place holder to obtain additional land, arguing that the requirement had acted as a barrier to the granting of titles and had resulted in the confirmation of squatting, while it denied the government a revenue from the occupied land.<sup>43</sup> Napier agreed. Cradock's regulation, which had been framed to encourage the conversion of loan farms, was withdrawn in 1839.

Another factor which helped in the better administration of the land department after 1835 was the interest shown by Governors D'Urban and Napier in the personnel and policies of the surveyor general's office and the second land board. D'Urban got on well with Michell and encouraged the surveyor general in his struggle to perfect the Cape's surveying system. The governor invited Michell to submit a memorandum on the workings of the land system in 1836; this was the first time that a Cape executive had solicited such a review since the introduction of the Cradock system in 1813. Michell's report, disappointing in its content, emphasized the need for additional clerical help.<sup>44</sup> After considering Michell's recommendation, D'Urban drove a hard bargain with his surveyor general: in return for more clerical assistance, Michell had to agree that his surveyors would speed up their work and that his office, including the land board, would prepare 120 titles per month.<sup>45</sup> Michell could not keep his promise; his monthly quota exceeded the yearly totals in the past. Yet the surveyor general felt a responsibility to keep the governor informed of his work and for some time submitted monthly reports.<sup>46</sup>

Governor Napier raised the status of the surveyor general by using him as a personal consultant, and during 1840, when Michell was in England, the governor urged him to correspond directly

42. Cape of Good Hope Blue Book for 1839, C.O. 5981 (Cape).

43. Land Board to Bell, 20 Sept. 1839, C.O. 478 (Cape).

44. Michell to D'Urban, private letter, 4 July 1836, C.O. 445 (Cape).

45. Michell to Bell, 27 Sept. 1836, *ibid.*, 16 Sept. 1837, C.O. 456 (Cape).

46. *Ibid.*, 10 Feb. 1837, C.O. 456 (Cape).

with the Colonial Office on the Cape's land problems.<sup>47</sup> As London increased its interest in Cape affairs in the early 1840's, Napier, in preparing replies, relied more and more upon the expertise of the surveyor general and the land board.<sup>48</sup>

Lesser officials, such as the colonial secretary, also showed a new concern for land problems. Sir John Bell, colonial secretary to the governor from 1828 to 1841, at first channeled executive policy to the surveyor general and land board, but especially after 1836 he acted on his own and solicited explanations of the delays in issuing titles from the board.<sup>49</sup> The more harmonious personalities in the Cape Town government contributed to a healthier administrative climate that seemed to spur the departmental officials into doing more work. At least in the land department after 1835, the cumulative effects of the consolidation of the land board and surveyor general's office, the removal of certain discriminatory clauses of the Cradock regulations, and the encouragement of the Cape executives produced the Cape's first successful system of land administration. The success of the land department was tempered by the continuation of the still primitive local governmental system and by the anarchical conditions which had prevailed under earlier land administration agencies. Yet by 1844 the Cape colony had a land department, an institution which it did not possess in 1813, 1828, or 1834.

III. UNFORTUNATELY THE SECOND LAND BOARD DID not keep any better records than D'Escury or the first board; the reports on land alienation are incomplete and often contradic-

47. Michell to Vernon Smith, 9 April 1841, C.O. 496 (Cape).

48. Napier to Russell, dispatch 19, 15 March 1841, G.H. 1/28 (Cape); Napier to Stanley, dispatch 97, 14 May 1842, G.H. 28/18 (Cape). See chap. x, pp. 163-70, below.

49. Bell to De Smidt, 30 July 1838, L.B. 99 (Cape). A neglected area of imperial study is the role of the colonial secretaries in the colonies in the execution of imperial policies. Of particular significance to South Africa are the careers of Bell and his successor, John Montagu. Bell served four governors and one acting governor and after his retirement from the Cape was appointed lieutenant governor of Guernsey (*D.N.B.*, II, 170). Although not qualified to understand the details of the Cape's surveying problems, he did not hesitate to criticize the board's actions and to ask for progress reports. Montagu, secretary from 1843 to 1853, was transferred from Van Diemen's Land and was at one point considered more powerful than the governor. See Kenneth N. Bell and W. P. Morrell, eds., *Select Documents on British Colonial Policy, 1830-1860* (Oxford: Clarendon Press, 1928), p. 108n. Montagu's contributions to the Cape government are discussed in J. J. Breitenbach, "The Development of the Secretaryship to the Government at the Cape of Good Hope under John Montagu, 1843-1852," *Archives Yearbook for*

tory.<sup>50</sup> By piecing together the statistics which are available, however, one can demonstrate in broad terms the achievements of the land department in granting titles from 1835 to 1844. In that ten-year period the land department surveyed and issued quitrent titles for 29,795,283 acres. In only one year, 1840, when Michell was in England, did the department fail to distribute titles for more than one million acres. Its yearly alienation rate was close to three million acres (see Table 7). The land department granted almost six times the amount of land alienated by either of its two predecessors. D'Escury endorsed grants for 5,206,018 acres during his tenure of office from 1813 to 1827. His average yearly alienation rate was less than 350,000 acres, but the erratic processing of titles under his inspectorship made the average meaningless.<sup>51</sup> The first land board approved grants for 5,477,623 acres from 1828 to 1834. Its average alienation rate was less than 800,000 acres per year.<sup>52</sup> Thus from 1835 to 1844 the land department issued titles for three times the total amount of land which had been alienated from 1813 to 1834.

The significance of the land department's more vigorous processing of claims can be seen when one realizes that it was acting upon applications for perpetual quitrent grants which had been made prior to 9 January 1832. According to the government notice of May 1832, the Cradock regulations of 1813 and the reformed regulations of 1828 were to be superseded by a London-based land code providing for the selling of land at a minimum upset price at public auction. Only those who had applied for grants before the date of the colony's receipt of the order were to receive grants under the old colonial system. It has already been pointed out that the London code was not enforced by the first land board.<sup>53</sup> The second land board also ignored introducing any new system of land alienation and worked to give legal recognition to the old claims for quitrent grants. Almost all of the

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*South African History* (2 vols.; Cape Town: Government Printer, 1959), II, 172-302. A general account of the relationship of the colonial secretary's office to other departments of government is given by Alan Kenneth Fryer in "The Government of the Cape of Good Hope, 1825-54," *ibid.* (1964), I, 1-154.

50. Frequently Michell had to make a calculated guess on the amount of land occupied and granted. See Michell to Vernon Smith, 9 April 1841, C.O. 496 (Cape).

51. See chap. v, pp. 70-75, above.

52. See chap. vii, pp. 111-13, above.

53. See chap. vii, pp. 116-17, above.

Table 7. Land alienated in perpetual quitrent in the Cape colony, 1 January 1835 to 31 December 1844<sup>a</sup>

Year	Total number of titles issued <sup>b</sup>	Total acreage alienated <sup>b</sup>	Total assessed quitrent	Titles for grants in excess of 500 acres	Acres alienated in grants over 500 acres	Annual quitrent on plots over 500 acres	Average size of grants over 500 acres
1835	131	1,075,133	£307. 6.6	83	1,074,211	£303.12.0	12,942
1836	513	2,173,505	935.15.7	414	2,170,025	911.14.10	5,242
1837	911	8,084,298	2,173.19.0	782	8,074,768	2,153.17.1	8,864
1838	622	6,473,066	1,287. 5.0	502	6,469,093	1,282.12.0	12,887
1839	410	2,826,315	410.12.7½	334	2,815,569	392. 2.7½	8,430
1840	165	268,186	68.16.8	47	267,715	68. 7.2	5,696
1841 <sup>c</sup>	333	3,431,138	518.19.3	228	3,420,380	508. 0.1	15,002
1842 <sup>d</sup>	211	1,599,025	373.19.6	160	1,598,472	373. 3.6	9,990
1843 <sup>e</sup>	228	2,117,503	451. 7.7	188	2,112,911	436.16.6	11,239
1844	274	1,747,114	402.11.0	131	1,745,316	390.14.6	13,323
Total	3,798	29,795,283	£6,930.12.8½	2,869	29,748,460	£6,821. 0.3½	10,362½

<sup>a</sup> Compiled from Cape of Good Hope Blue Books for 1835-44, C.O. 5977-86 (Cape); "Return Showing the Total Quantity of Crown Land, or Land subject to the Disposal of the Crown . . . which has been sold in each of the Colonies of Great Britain during Each Year since the 1st Day of January 1831," 1840, G.B., *Sessional Papers*, 1840 (510), XXXIII, 1-6; "A Return Showing the Total Quantity of Crown Land which has been Sold in each of the Colonies of Great Britain during the Years 1839, 1840, and 1841, so far as can be Supplied," 4 May 1842, G.B., *Sessional Papers*, 1842 (231), XXXI, 39; and "Seventh General Report of the Colonial Land and Emigration Commissioners," 1847, G.B., *Sessional Papers*, 1847 (809), XXXIII, Appendix 33, p. 208.

<sup>b</sup> Includes a small amount of land sold at auction and by valuation which may or may not have been made in quitrent tenure.

<sup>c</sup> From 1 Jan. 1841 to 30 Sept. 1841.

<sup>d</sup> From 1 Oct. 1841 to 30 Sept. 1842.

<sup>e</sup> From 1 Oct. 1842 to 31 Dec. 1843.

<sup>f</sup> Average, not total.



land granted in perpetual quitrent from 1835 to 1844, then, was that which should have been granted by D'Escury and the first board.

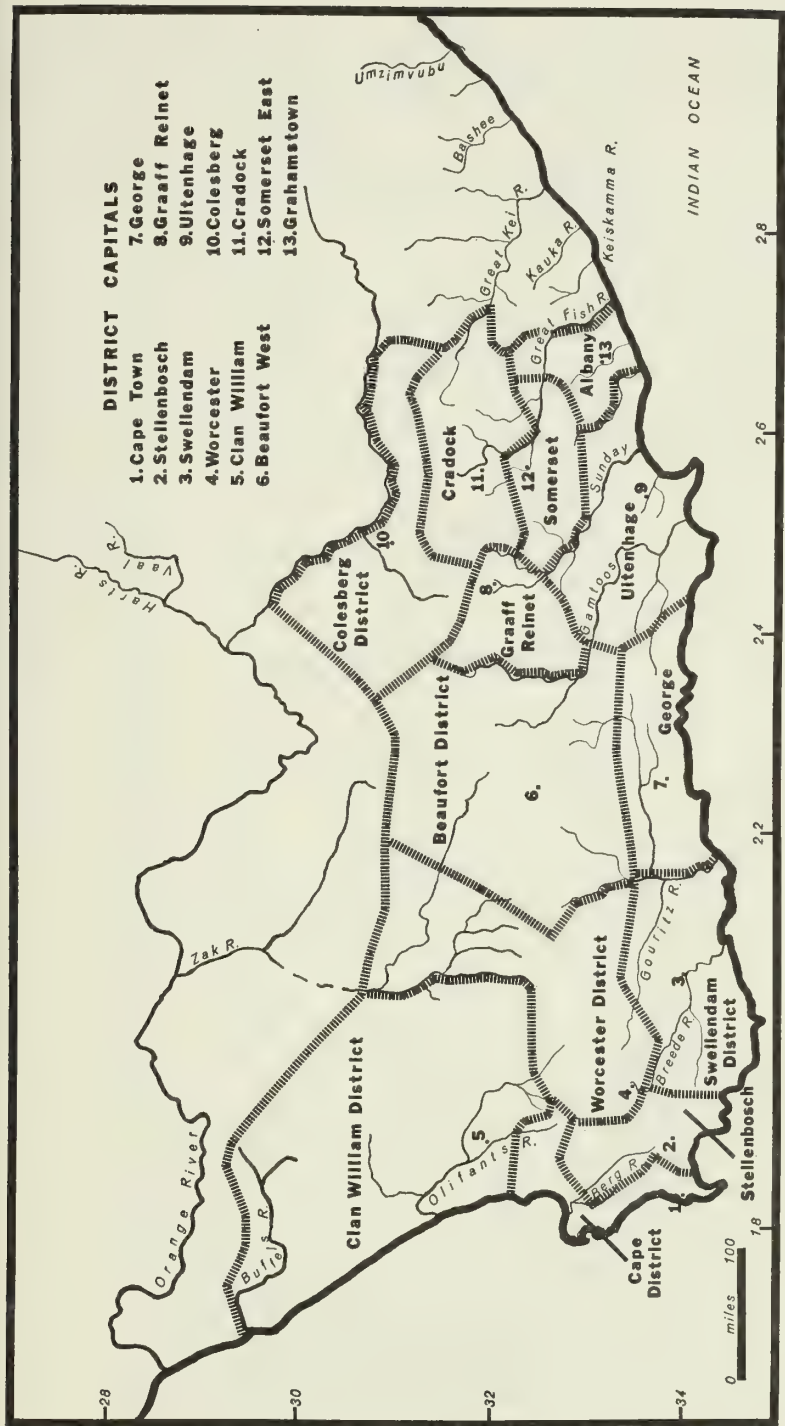
Unlike its forerunners, the land department extended its service to the less-established districts of the colony. Bathurst's slave-free zone had resulted in the piling up of requests for land along the colonial borders from 1826 to 1835. Cradock's stipulation requiring the conversion of loan farms before holders could obtain grants of new land also had resulted in an accumulation of memorials. The new board, freed to consider applications from colonists in all districts, made grants in areas where no titles had been issued. A majority of the 513 titles drafted in 1836 were for the frontier settlers in Somerset, Cradock, and Graaff Reinet. About 380 of these were completed during the last three months of 1836, after the governor had added an extra clerk to the department's staff.<sup>54</sup> Graaff Reinet, whose land claims had been consistently overlooked in the past (from 1828 to 1834 the district obtained one title for a grant in excess of five hundred acres), received its first titles from the land department. Almost eight hundred titles for grants in excess of five hundred acres were prepared for that district from 1835 to 1844. Clan William, a subdivision of Worcester, had not received a single quitrent title from the first land board. By 1840 the department had issued two hundred titles for 2,120,228 acres in the district.<sup>55</sup> Beaufort district, which had been created in 1818, did not receive any of its titles until after 1835. (Tables 8A and 8B demonstrate the widespread distribution of titles from 1835 to the close of 1844.)

An overwhelming proportion of the land granted was for large tracts each in excess of five hundred acres. The first board had made 1,086 such grants containing 5,342,732 acres; the second board issued 2,869 grants containing 29,748,460 acres. The average size of the grant containing more than five hundred acres also increased from 5,327 acres in the period from 1828 to 1834 to 10,362 acres in the period from 1835 to 1844. This increase is a further indication that the land department was reaching out to the more marginal areas of the colony where larger holdings were

54. Cape of Good Hope Blue Book for 1836, C.O. 5978.

55. "Statement of Number of Grants Exceeding 500 Acres each, of Crown Waste Lands, made in Quit Rent and The Number of Acres Thereby Granted from 1 January 1828 to 31 December 1840," T. 222 (Cape).





Map. 3. District divisions of the Cape colony, 1844

(After Böseken, *Geskiedenis-Atlas vir Suid-Afrika*, map 62)



Table 8A. *Distribution of perpetual quitrent titles for grants under 500 acres each by districts, 1 January 1835 to 31 December 1844<sup>a</sup>*

<i>District</i>	1835	1836	1837	1838	1839	1840	1841 <sup>b</sup>	1842 <sup>c</sup>	1843 <sup>d</sup>	1844	<i>Total</i>
Cape	17	23	44	23	13	18	9	10	7	73	237
Stellenbosch	0	10	19	9	27	2	20	2	13	1	103
Worcester											
(including Clan William)	14	17	28	5	2	0	0	0	0	1	67
Swellendam	2	2	14	10	9	5	1	1	2	1	47
George	0	21	3	15	1	0	2	7	4	14	67
Uitenhage	4	17	2	18	18	3	0	13	2	2	79
Albany	2	7	2	38	1	50	46	6	0	42	194
Somerset											
(including Cradock)	0	0	4	0	0	37	20	0	1	0	62
Graaff Reinet											
(including Colesberg)	9	2	5	2	5	3	7	12	8	9	62
Beaufort	0	0	8	0	0	0	0	0	3	0	11
<i>Total</i>	<u>48</u>	<u>99</u>	<u>129</u>	<u>120</u>	<u>76</u>	<u>118</u>	<u>105</u>	<u>51</u>	<u>40</u>	<u>143</u>	<u>929</u>

<sup>a</sup>. Includes a small amount of land sold at auction and by valuation which may or may not have been in quitrent tenure. Compiled from Cape of Good Hope Blue Books for 1835-44, C.O. 5977-86 (Cape).

<sup>b</sup>. From 1 Jan. 1841 to 30 Sept. 1841.

<sup>c</sup>. From 1 Oct. 1841 to 30 Sept. 1842.

<sup>d</sup>. From 1 Oct. 1842 to 31 Dec. 1843.

Table 8B. *Distribution of perpetual quitrent titles for grants in excess of 500 acres each by districts, 1 January 1835 to 31 December 1844<sup>a</sup>*

District	1835	1836	1837	1838	1839	1840	1841 <sup>b</sup>	1842 <sup>c</sup>	1843 <sup>d</sup>	1844	Total
Cape	11	12	30	14	53	5	12	6	8	11	162
Stellenbosch	5	3	13	7	30	0	5	1	5	1	70
Worcester											
(including Clan William)	1	32	62	245	48	4	14	0	58	59	523
Swellendam	2	22	89	90	51	8	9	2	10	0	283
George	0	2	3	0	0	13	28	20	8	16	90
Uitenhage	0	4	1	1	2	0	0	1	24	1	34
Albany	9	18	1	5	0	4	4	4	0	13	58
Somerset											
(including Cradock)	0	198	192	10	47	9	3	9	43	6	517
Graaff Reinet											
(including Colesberg)	55	123	290	0	100	3	62	109	28	2	772
Beaufort	0	0	101	130	3	1	91	8	4	22	360
Total	83	414	782	502	334	47	228	160	188	131	2,869

<sup>a</sup> Includes a small number of plots sold at auction and by valuation which may or may not have been in quitrent tenure. Compiled from Cape of Good Hope Blue Books for 1835-44, C.O. 5977-86 (Cape).

<sup>b</sup> From 1 Jan. 1841 to 30 Sept. 1841.

<sup>c</sup> From 1 Oct. 1841 to 30 Sept. 1842.

<sup>d</sup> From 1 Oct. 1842 to 31 Dec. 1843.

necessary. (Table 9 shows the distribution of titles for large grants made by the first board from 1828 to 1834 and by the second board from 1835 to 1844.)

Table 9. *Perpetual quitrent titles issued for grants in excess of 500 acres in each district during 1835-44 compared with those issued during 1828-34<sup>a</sup>*

District	1828-34		1835-44	
	Number of titles issued for grants in excess of 500 acres	Extent of land granted in titles for plots in excess of 500 acres (acres)	Number of titles issued for grants in excess of 500 acres	Extent of land granted in titles for plots in excess of 500 acres (acres)
Cape	111	327,433	162	930,890
Stellenbosch	145	520,750	70	215,598
Worcester (including Clan William)	189	1,296,986	523	7,249,963
Swellendam	264	1,220,137	283	1,539,287
George	112	545,526	90	487,979
Uitenhage	109	502,365	34	144,238
Albany	74	288,757	58	207,287
Somerset (including Cradock)	81	569,458	517	3,486,857
Graaff Reinet (including Colesberg)	1	71,320	772	9,018,050
Beaufort	0		360	6,468,311
Total	1,086	5,342,732	2,869	29,748,460

a. Compiled from "Statement of Number of Grants Exceeding 500 Acres each, of Crown Waste Lands, made in Quit Rent and the Number of Acres Thereby Granted from 1 January 1828 to 31 December 1840," T. 222 (Cape); Cape of Good Hope Blue Books for 1828-44, C.O. 5970-86 (Cape).

The accomplishments of the land department must be considered as progress *in the direction* of an improved state of affairs at the Cape. After all, in making perpetual quitrent grants it was merely giving legality to the colonists' earlier occupation of land. Gradually, the board was replacing squatting and the request-place system with a policy approved by Cape Town, but it would have been virtually impossible for the land department to eliminate all features of the colonists' own land tenures within its ten years. In 1843 the surveyor general had to tell the governor that many of the farmers and graziers still had to rely upon their wits to hold land in the colony.<sup>56</sup> The weak governmental struc-

56. Michell to Montagu, 20 Nov. 1843, C.O. 515 (Cape).



ture in the interior, the shortage of personnel in the land department, the inaccurate work performed by surveyors, and the backlog of old applications for land were problems which had to be overcome before the land department could begin to provide positive leadership in the alienation of land. Its record from 1835 to 1844 was that of a department which was catching up with the deluge of confusion that had prevailed in the Cape's land system since 1813. Given additional time and encouragement, the second land board and the surveyor general's office might have been able to complete their responsibility.

## CHAPTER NINE. IMPERIAL LAND POLICIES AND THE CAPE, 1828-1840

THE GENERAL APATHY TOWARD SOUTH AFRICAN land policy shown by London's Colonial Office during the first three decades of the nineteenth century was transformed into a more eager but still largely negative interference after 1828. The change in attitude did not come about in response to conditions at the Cape. The propellants of change were new philosophies of colonization which emphasized the reciprocal value colonial lands might have for colony and mother country, land practices in the United States which were resulting in a rapid development of interior territories and in large revenues for the government, and London's older commitment of seeking to raise more revenue in the colonies. The new imperial attitude, as seen in such specifics as the Ripon regulations of 1831, the report of the Select Committee on Waste Land in 1836, and the creation of the Colonial Land and Emigration Commission in 1840, may be misleadingly classified under the simple label of "imperial land policy." That London's attitude was at best a series of convictions and desires dependent upon the interest and talents of its makers and enforcers should not be overlooked in evaluating a decade of government actions. The Age of Wakefield and the Era of the Systematic Colonizers were coexistent with the Age of Neglect and Administrative Infancy in the Colonial Office. The standardization and centralization of colonial land codes was an objective occasionally resurrected from the files in the Downing Street office and momentarily held out as an immediate goal.

From 1828 to 1840, London did not have an imperial land policy because she had little interest in enforcing any one program. In spite of the increased recognition she gave to land as an asset of the crown and in spite of her willingness to employ Wakefieldian terminology, she did not produce a uniform system for her colonies of settlement. The Cape escaped almost completely from London's desires and directives. In 1832 and again in 1838, the Cape had to acknowledge its intent to abide by an imperial land code set out in strongly worded dispatches from the

Colonial Secretary, but in each instance it refrained from immediate compliance. It was not until 1843-44, after the Colonial Land and Emigration Commission had been created in 1840 as an appendage of the Colonial Office, that London's demands for the enforcement of its own land codes became so loud and so persistent that the colony was forced to alter its land alienation system.

I. THE COMMISSION OF INQUIRY, STATIONED IN THE Cape from 1823 to 1826, resulted in London's rediscovery of South Africa. The dismal and expensive failure of the 1820 Albany settlement scheme had reinforced the Colonial Office's attitude that the Cape was a maritime colony which could not be transformed into a thriving British possession. Emigration was discouraged; the colony was to be left to its original settlers, who were to be prevented from enslaving the neighboring tribes.<sup>1</sup> The detailed and fresh reports of the commission of inquiry were optimistic about the colony's future as an agrarian settlement of the crown. If the colonial government were extensively rearranged and if the tax base of the colony were adjusted, the colony would be well governed and financially solvent.<sup>2</sup> The arguments of the commission interested two members of the Colonial Office, R. J. Wilmot Horton, undersecretary, and R. W. Hay, permanent undersecretary.

The first to explore the Cape in the spirit of the commissioners of inquiry was Wilmot Horton. In many ways, the parliamentary undersecretary was the precursor of Edward Gibbon Wakefield, though he lacked Wakefield's ability to infuse his logic with excitement.<sup>3</sup> As soon as he was relieved of part of his duties in the

1. Hay to Bourke, 12 Aug. 1827, C.O. 49/21 (P.R.O.). For example, as early as 1821, the acting governor of the Cape wrote Bathurst: "I by no means must be understood as recommending a further Emigration to this Colony. Nature has absolutely refused to it the power of supporting a dense population. Persons coming out here by twos and threes, with *some capital* and a good deal of Industry will succeed—but—Even to them I would not go so far as to recommend this Colony." Donkin to Bathurst, private, 7 July 1821, C.O. 48/54 (P.R.O.).

2. "Estimate of the Permanent Revenue and Expenditure of both Provinces of the Cape of Good Hope," enclosure in Goderich to Bourke, dispatch 10, 14 June 1827, C.O. 49/19 (P.R.O.); "Report of the Commissioners of Inquiry upon the Finances," Theal, *Records*, XXVII, 397-532.

3. See Douglas Pike, "Wilmot Horton and the National Colonization Society," *Historical Studies: Australia and New Zealand*, VII (May 1956), 205-10.

Colonial Office by the appointment of a permanent undersecretary in 1825, Wilmot Horton gave more and more of his attention to the inauguration of imperial emigration projects as a means to rid the British Isles of some of its poor and to aid in the development of Britain's colonies.<sup>4</sup> In the same year the Colonial Office had sent new instructions to the governor of New South Wales, providing for a system of limited sales of land by tender in the settled areas. The price per acre, although not fixed, was to average five shillings. Whereas gratuitous grants were not prohibited, London was moving away from its earlier philosophy that land had no important value until settlement had taken place. The new regulations for New South Wales were needed in part because of the increasing number of free settlers who were attracted to the convict colony.<sup>5</sup> Almost as soon as these instructions were issued, the Colonial Office used them as the basis for altering the land codes in the North American colonies.<sup>6</sup> The idea of the use of land sales as the best means for alienating land was growing, but of equal importance was the idea that a system of sale would be more attractive to prospective settlers. Wilmot Horton reasoned that the Cape would benefit from the same system of land sales and asked the commission of inquiry to consider the adoption of the Australian land laws for the colony.<sup>7</sup>

The commission did not send a reply. Two years later, in 1827, Hay decided to pursue the subject and wrote Acting Governor Bourke. Since many of the commission's reforms were scheduled for introduction in 1828, Hay was anxious to get a new land law which would be familiar to London. He assumed that the anticipated reforms would have

the effect of attracting a great many individuals to the Colony, and as it will become desirable also to encourage by all proper means the introduction of British Industry and capital, I would beg leave to recommend that you should give your early attention to the considera-

4. Young, *The Colonial Office in the Early Nineteenth Century*, pp. 82, 99.

5. June Philipp, "Wakefieldian Influence and New South Wales, 1830-1832," *Historical Studies: Australia and New Zealand*, IX (May, 1960), 174; "The Case for a Minimum Upset Price," in C. M. H. Clark, ed., *Select Documents in Australian History* (2 vols.; Sydney: Angus & Robertson, 1950, 1955), I, 222-25.

6. Riddell, "A Study in the Land Policy of the Colonial Office, 1763-1855," p. 390; Peter Burroughs, "Wakefield and the Ripon Land Regulations," *Historical Studies: Australia and New Zealand*, XI (April 1965), 453; Norman Macdonald, *Canada, 1763-1841: Immigration and Settlement*, pp. 312-28.

7. Wilmot Horton to Commissioners of Inquiry, 30 April 1825, Theal, *Records*, XXI, 172.

tion of the arrangements which might be adopted with a view to assisting those persons who may become desirous of transferring themselves to the Colony for the prosecution of agricultural purposes.<sup>8</sup>

Hay asked the governor to consider Horton's request of 1825. By the time Hay's letter reached him, Bourke already had enforced some of the land regulations devised by the commissioners of inquiry. But he was not in the mood to undertake an extensive investigation for the Colonial Office. He knew that he had been denied the permanent governorship of the colony<sup>9</sup> and that he was merely a caretaker until his successor arrived. Earlier he had written in a private letter to Horton: "The duties are heavy, and irksome to one who feels he is in temporary possession of the Government and can not therefore venture on any thing decisive or useful."<sup>10</sup> Hay's letter was not answered.<sup>11</sup>

The Colonial Office readily accepted the commission of inquiry's reformed regulations for the Cradock system, but it is doubtful, because of its limited knowledge of the Cape's code, that London knew what it was approving. Goderich's enthusiasm for the creation of the land board and the surveyor general's office was founded on the expectation of an increased revenue from the land grants. The commissioners had estimated that the reformed regulations would greatly augment the crown's income. It was thought that land rents might provide up to 20 per cent of the total revenue of the government.<sup>12</sup> The commission's estimate was foolish in view of the colony's history of land arrears. In vain did the colonial government attempt to discourage London's presumption. The Cape Secretary to Government, Sir Richard Plasquet, in asking Hay to review Goderich's figures, forwarded a letter from the landdrost of Albany to demonstrate the need for a more realistic view of the colony's revenue:

I am sorry to be every hour more and more confirmed in my opinion that a short time will show that those gentlemen [the commissioners of

8. Hay to Bourke, 12 Aug. 1827, C.O. 49/21 (P.R.O.).

9. Bourke to Marchant, 27 Feb. 1826, and "Memorandum of M. General Bourke's Case," Rh. H. Mss. Afr. t 7, vols. 2 and 9 (Rhodes House).

10. Bourke to Horton, 26 June 1827, *ibid.*, vol. 2.

11. Bourke himself was not opposed to any program of anglicization for the Cape. In 1828 he wrote: "Whilst I remain the English law will be professed. I have been so long protected by it, it would be inexcusable to withhold its blessings from others wheresoever it can be beneficially introduced." Bourke to Sir Herbert Taylor, 5 Jan. 1828, *ibid.*

12. Goderich to Bourke, dispatch 10, 14 June 1827, C.O. 49/19 (P.R.O.).



inquiry] have overestimated the resources of the country, and that their report will do a great deal of harm altogether. I wish them no greater harm than that they be sent to collect the taxes they have proposed and to carry into effect other Innovations but for one year.<sup>13</sup>

Plasket did not succeed, and time after time throughout the 1830's London's passing interest in Cape land policy was motivated by the prospect of obtaining more money to pay the colony's bills.

The Colonial Office did not allow the reformed regulations of 1828 to be enforced for very long before it intervened in the tradition of Bathurst. No other stimulus could mobilize the Colonial Office more effectively than the news of another frontier war between Boer and Bantu. London was put on its guard in 1828 when Bourke reported fierce fighting among the Xosa tribes along the Great Fish River and the tribes to the east.<sup>14</sup> When Makomo, a chief living within the neutral or ceded strip of territory which had been established east of the Great Fish River in 1817, pursued a weaker tribe into the colony, Governor Cole decided that the colony had to build a new wall of humanity in Makomo's territory.<sup>15</sup> The chief was to be driven out of the frontier area, and colonists were to form a new defensive wedge as was attempted with the Albany settlers of 1820. London approved the expulsion of the tribes from the neutral territory as a measure necessary, in part, to make the Africans "understand the advantages of a rigid observance of the rights of property,"<sup>16</sup> and Goderich authorized the colonization of the territory.<sup>17</sup>

Cole opened the ceded territory by advertising for settlers in a proclamation issued in March 1830. Boers who were willing to

13. Landdrost of Albany to Plasket, 13 Nov. 1827, enclosure in Plasket to Hay, 22 Nov. 1827, Theal, *Records*, XXXIV, 134-35.

14. Bourke to Huskisson, private and confidential, 29 June 1828, C.O. 48/124 (P.R.O.); Bourke to Colonial Secretary, dispatch 38, 1 Aug. 1828, C.O. 48/125 (P.R.O.).

15. Cole to Murray, dispatch 24, 14 June 1829, C.O. 48/130 (P.R.O.). The neutral or ceded territory was a triangular piece of ground roughly thirty miles wide between the Great Fish River and the Keiskamma River. Both London and the Cape's governors treated the territory as an integral part of the colony although colonists were prohibited from settling in it until 1829. An excellent account of frontier policy as interpreted by the Colonial Office is "Paper Prepared by Mr. Beecham for the use of Mr. Buxton, The Cape of Good Hope," n.d. [1835?], C.O. 48/165 (P.R.O.). A commendable study of Cape frontier policy is that of C. S. Grieve, "The Policy of His Majesty's Government Towards Europeans Beyond the Colonial Borders, 1830-1846" (unpublished Master's dissertation, University of Cape Town, 1924).

16. Murray to Cole, dispatch 107, 15 Oct. 1829, C.O. 49/23 (P.R.O.).

17. Goderich to Cole, dispatch 24, 26 May 1831, *ibid.*

remain on their locations were to receive an unlimited amount of land in the territory.<sup>18</sup> Also, some land had been reserved earlier for a concentrated settlement of Hottentots on the Kat River, which also would contribute to the colony's defense efforts.<sup>19</sup>

London was well pleased with Cole's Hottentot settlement but viewed with gloom his policy of granting land to the Boers. Here was an opportunity for British settlers, who, unlike the Boers, would contribute to the "civilizing" of the frontier tribes. Goderich distrusted the Boers; a recent report by the commissioners of inquiry had implied that the colonists were engaged in an illegal slave trade with the Africans.<sup>20</sup> Reaffirming London's attitude of the 1820's on the character of the majority of the Cape's colonists, Goderich ordered the Boers to leave the neutral territory: "Those lands should be granted to Englishmen and to Hottentots only."<sup>21</sup>

After a further study of the report of the commission of inquiry on the state of slavery at the Cape, Goderich decided to strengthen Bathurst's stipulation of 1820 and 1826 prohibiting landholders in the frontier districts from using slaves on the land. The commission's report pointed out what London did not know: that until titles were issued, no prohibition could be enforced, and thus settlers on the frontier, for example in Albany district, were using slaves.<sup>22</sup> In August 1831, Goderich asked the governor to provide a report on the inclusion of the slave prohibition clause in all titles issued since 1820 for land in all "frontier districts." The Bathurst-Bourke compromise, which applied the prohibition only to a thirty-mile-wide zone along the colony's borders, was dismissed. The stipulation was to be strictly enforced and was to be applied to all grants in the colony. "I attach so much importance to this restriction that I am under the necessity of acquainting you that His Majesty's marked displeasure would follow any infringement of it."<sup>23</sup> Cole was then told:

In all future conveyances or licences of occupation of Crown lands by whatever tenure they may be holden, and whether conveyed in

18. Cape Town *Government Gazette*, 5 March 1830.

19. Cole to Murray, dispatch 1, 2 Jan. 1830, C.O. 48/135 (P.R.O.).

20. Bigge to Hay, 5 April 1831, C.O. 48/160 (P.R.O.).

21. Goderich to Cole, dispatch 24, 26 May 1831, C.O. 49/23 (P.R.O.).

22. Bigge to Hay, 5 April 1831, C.O. 48/160 (P.R.O.).

23. Goderich to Cole, dispatch 43, 11 Aug. 1831, C.O. 49/25 (P.R.O.).

perpetuity or for any definite time you will introduce a clause of forfeiture if any Slave is ever employed in the cultivation of them, and you will direct the Attorney General to give his earliest and most exact attention to the duty of preparing such a clause in terms of the most comprehensive and precise and the least capable of evasion.<sup>24</sup>

Cole and his executive council, an advisory body created in 1825, sought to convince the Colonial Office that the host of new slave regulations was testing the obedience of the colonists:

The prohibition to use Slave labour, in the cultivation of all grants of lands in the frontier districts made by Government since 1820 is felt with much weight. . . . Although this clause has not yet operated, few of the grantees having received a title, yet the consequences of it are anticipated and have produced much dissatisfaction.<sup>25</sup>

After making its formal protest, the Cape government apparently did nothing with Goderich's dispatch. The Bathurst-Bourke compromise of 1826 was continued. No new clause for all titles was drafted. A proclamation in 1834 prohibited the taking of slaves across the colonial boundary,<sup>26</sup> but the decree had no relationship to Goderich's order of 1831. So long as the Colonial Office did not follow up its dispatches with a prompt inquiry for a report on the operation of its policies, the Cape could interpret London's instructions to fit the conditions of the colony. Cole's action was in keeping with the position taken earlier in reference to Bathurst's orders on reserving lands for the church and on prohibiting the use of slaves in the frontier grants.

Almost as an afterthought to his declaration that only Hottentots and Englishmen were to receive land in the ceded territory, Goderich stipulated that lands in the territory should be sold and not granted under the existing alienation code.<sup>27</sup> Here was a return to Horton and Hay's interest in standardizing the Cape's land laws with those of other colonies. For almost a year, the Colonial Office was concerned with the introduction of sale as the method of alienating land at the Cape. By the end of 1832, however, London presumed that its decrees were being enforced and did not bother to check with the Cape governors. Once more

24. *Ibid.*

25. "Extracts from the Minutes of a Council, held on Monday, the 20 Day of February, 1832," enclosure in Cole to Goderich, dispatch 8, 4 March 1832, C.O. 48/146 (P.R.O.).

26. Cape Town *Government Gazette*, 12 Sept. 1834.

27. Goderich to Cole, dispatch 24, 26 May 1831, C.O. 49/23 (P.R.O.).

the colony either ignored or sidestepped the Colonial Office's pronouncements.

The year 1831 was a busy one for the Colonial Office. After Edward Gibbon Wakefield published his *A Letter from Sydney* in 1829, his admirers quickly formed a pressure group in London to campaign for the introduction of new imperial colonization and emigration schemes.<sup>28</sup> In response to the concern for regularity in Britain's emigration policies, Goderich created the emigration commission in 1831. The agency was to collect information on the colonies and to obtain cheap passage from the British Isles. The Cape, included in the new program, was asked to co-operate with the commission.<sup>29</sup>

Of greater importance than the commission, which lacked both authority and money to serve as a forceful agency, was the personality of Lord Howick, who in 1830 had become parliamentary undersecretary in the Colonial Office. Howick, the young son of Earl Grey, was as comfortable with his own ideas and convictions as he was with people. He had accepted Wakefield's arguments, and although he kept the systematic colonizers out of the office, he introduced their language into the dispatches on colonial land alienation.<sup>30</sup> It is true that the administrative systems devised for the implementation of London's new land codes of 1831 bore a close resemblance to those used in the past, and it is equally true that the principles of the codes could be found in former dispatches.<sup>31</sup> But the Colonial Office's reassessment of the purpose of land codes in the colonies of settlement introduced a new breadth into London's traditional view of land alienation. The new codes, which "represented an attempt to bring the management of colonial waste lands into line with the new desire to accommodate English labourers,"<sup>32</sup> were chiefly the work of Howick, who may have been willing to go even further in the adoption of the Wakefieldian philosophy.<sup>33</sup> The prime minister's son over-

28. Robertson, "The Cape of Good Hope and 'Systematic Colonization,'" *South African Journal of Economics*, V (Dec. 1937), 369-70; documents and comments in Bell and Morrell, eds., *Select Documents on British Colonial Policy, 1830-1860*, pp. 195-204.

29. Goderich to Cole, dispatch 37, 4 Aug. 1831, G.H. 1/17 (Cape).

30. Helen Taft Manning, "Who Ran the British Empire, 1830-1850?" *Journal of British Studies*, V (Nov. 1965), 93-97.

31. For example, see Philipp, "Wakefieldian Influence and New South Wales, 1830-32," pp. 175-78.

32. Burroughs, "Wakefield and the Ripon Land Regulations," p. 454.

33. Riddell, "A Study in the Land Policy of the Colonial Office, 1763-1855," p. 399.



whelmed his Colonial Secretary, who was "universally regarded as the most weak-kneed member of the Grey ministry,"<sup>34</sup> and at one point Howick confessed to his father that while serving in the Colonial Office, he had "exercised . . . all the power and authority of a Secretary of State."<sup>35</sup> At least in respect to the new pronouncements on land policy, the dispatches carried Goderich's signature under the ideas of his more active undersecretary.

The first colonies to have their land laws redrafted in 1831 were those in Australia. New South Wales and Van Diemen's Land were to have their territory divided into counties, hundreds, and parishes of equal size. Certain counties would be opened from time to time according to a master plan of settlement. Land proclaimed open for alienation would be sold by public auction at a minimum upset price of five shillings per acre. Surveying and diagraming would precede the sale. The successful bidder was to pay 10 per cent of the purchase price on the day of sale and the remainder within a month. Grants were to be made in fee simple, but a nominal annual recognition fee of one peppercorn was to be paid by the purchaser. The basic unit of land to be surveyed and exposed to auction was 640 acres, a square mile.<sup>36</sup>

The Australian regulations were framed in January 1831. In March, the Colonial Office recodified the land law of the Canadian provinces. The commissioner of crown lands in the North American colonies was to prepare annually a list of surveyed lots to be sold by public auction at a minimum upset price. Land was to be granted in freehold without any recognition fee. No minimum upset price was established for Canada. Instead, the commissioner and his surveyors were to evaluate each plot and fix an upset price on the ground's worth. The unit of land to be put up to auction was one hundred acres. The successful bidder was to pay one-fourth of the purchase price on the day of sale and the remainder in three equal payments with interest at intervals of six months each. Colonists wanting land that had not been put up to auction could request the commissioner to survey and evaluate these plots.<sup>37</sup>

34. Manning, "Who Ran the British Empire, 1830-1850?" p. 94.

35. *Ibid.*, p. 93.

36. "Terms upon which the Crown Lands will be disposed of in New South Wales and Van Diemen's Land," enclosure 2 in Goderich to Cole, dispatch 38, 5 Aug. 1831, G.H. 1/17 (Cape).

37. "Regulations for Granting Lands in the British North American Provinces," 6 March 1831, enclosure 1 in *ibid.*



Although the regulations for Australia and North America introduced sale by public auction at a preestablished minimum upset price, they differed on some fundamental points. Australia's price, set at five shillings in 1831, was a blanket one, covering all but suburban and town lots. The fertility of the soil and the distance of the grant from market centers received no special recognition. The Canadian price, on the other hand, was to be geared to local conditions. The collection of quitrents was officially abandoned in British North America, thus bringing Canadian land law closer to that of the United States; but in Australia the crown was still wedded to the theory that the recipient of land must show his acknowledgement, be it only in the form of a peppercorn. The units of land, 640 acres in Australia and 100 acres in Canada, took into account the different geographical and climatic conditions of the colonies; but in the Australian colonies, lands opened for selection were supposedly to be in virgin and undeveloped areas of the colony, whereas the Canadian method was also to be applied to areas where colonization had taken place.

In May 1831, Goderich wrote the Cape governor that lands in the ceded territory were to "be sold at given sum for the acres." No additional information was given. If Goderich had meant to introduce any of the provisions of either the new Australian or Canadian code, his dispatch did not reveal his intention. Goderich's ambiguous directive of May was followed by another equally as vague and confusing. On 5 August 1831 he wrote Cole that in reference to his May dispatch recommending the use of "land sales" in the ceded territory, he had decided now to introduce a whole new system for the colony

as has been done in the British North American and Australian colonies, and I transmit for your information copies of the regulations relating thereto, which have been adopted in those colonies, in order that you may perceive the principle upon which His Majesty's Government have acted in framing those Regulations.<sup>38</sup>

What was the Cape government to do? What was the principle adopted by the Colonial Office? Two different systems of land alienation had been submitted as examples of His Majesty's new

38. Goderich to Cole, *ibid.*

land policy, and in his covering letter to the governor, the Colonial Secretary spoke of perhaps a third—selling land at a uniform price per acre without auction. The Cape's executive department scanned the dispatch and the enclosed regulations. It seemed that the only certain requirements were that land be sold after survey in some convenient unit, that the sale might be by public auction, and that some system of deferred payment be allowed. "It seems we are not obliged to follow either system of the enclosed," wrote the Cape's colonial secretary in the margin of Goderich's dispatch, "but only to get the highest prices for land."<sup>39</sup>

The dispatch containing the "Ripon regulations" of 1831 was received on 9 January 1832. Not until May was the colony informed that it was to operate under an imperial land system calling for land to be sold at a minimum but unstated price at public auction. No new applications for free grants in quitrent were to be honored.<sup>40</sup> The proclamation did not state what the new tenure would be—quitrent, absolute freehold, or fee simple with a recognition fee.<sup>41</sup> From the wording of the announcement, one would expect an additional notice giving the details on the operation of the new regulations. No further statement was made, and no instructions were framed for the guidance of the surveyor general. His knowledge of the change in the land law came from a chance reading of the *Government Gazette*.<sup>42</sup> The government felt that it should not interrupt the land board in its processing of applications for quitrent grants. The May publication specifically provided that all requests dated prior to 9 January 1832 would be acted upon under the former colonial rules. It appears that all other sections of the May publication were forgotten.

Goderich's dispatch was in much need of clarification, but Cole did not ask for a restatement of policy. London assumed that the Ripon regulations were being enforced, and again she did not follow up any of her dispatches. The Colonial Office's assumption was reinforced when it read the Blue Book for 1831, which had been prepared in the middle of 1832. A statement in the book condensed the May proclamation of 1832 into the following words: "Grants of land are now forbidden by His Majesty's Gov-

39. Marginal comment, in *ibid.*

40. See chap. vii, pp. 116-17, above.

41. Cape Town *Government Gazette*, 18 May 1832.

42. Michell to Craig, 11 March 1842, C.O. 508 (Cape).

ernment and no applications have been attended since the order to that effect was received, but all grants which were already in progress must be made good."<sup>43</sup>

One further incidental dispatch concluded London's actions in seeking to regularize the Cape's land laws in 1831 and 1832. In November 1831 the Colonial Secretary found to his indignation that according to the Cape's Blue Book for 1830, 153,089 acres had been granted in perpetual quitrent at a rent of less than one-half farthing per acre. Not only did Goderich consider the quitrents to be far too low, but he was irritated to see that "all the grantees bear Dutch names."<sup>44</sup> Governor Cole was told not to grant any more land until he received further instructions. Goderich made no reference to his two earlier dispatches of the year. This added to the confusion, for in May 1831 Cole had been told that land in the ceded territory was to be sold only to Englishmen and Hottentots; in August he had been instructed to frame a slave-prohibition clause for inclusion in all land titles; and in the same month he had also been told to adopt the principles contained in the Australian and Canadian land codes. Now in November he was instructed to stop all land alienation.<sup>45</sup> There was also a strong indication that the Colonial Office in a future dispatch would limit the granting of new land to the Boers.<sup>46</sup>

Cole did not stop the issuing of grants. Instead he asked the land board to explain to his superiors why the colony's quitrents were low and why so many of the applicants were Dutch. The governor transmitted the board's report in December 1832.<sup>47</sup> When the Colonial Office received the board's explanation, it catalogued it and the governor's dispatch under "miscellaneous," and nothing more was said about any of the dispatches which had been sent out in 1831. A new Colonial Secretary, Edward George Stanley, succeeded Goderich in the spring of 1833, and Howick, too accustomed to seeing his ideas accepted by the colonial secretary, resigned in the same year when Stanley refused to use his proposal for emancipating the slaves in the Empire.<sup>48</sup> With How-

43. Cape of Good Hope Blue Book for 1831, C.O. 5974 (Cape).

44. Goderich to Cole, dispatch 58, 25 Nov. 1831, G.H. 1/18 (Cape).

45. *Ibid.*

46. *Ibid.*; dispatch 4, 20 Jan. 1831, G.H. 1/17 (Cape).

47. Land Board to Bell, 5 Dec. 1832, enclosure in Cole to Goderich, dispatch 35, 24 Dec. 1832, C.O. 48/146 (P.R.O.).

48. Manning, "Who Ran the British Empire, 1830-1850?" p. 93.

ick out of the office and with Stanley working on his own plans for freeing the slaves, the Colonial Office resumed its traditional passivity about Cape land policy.

II. FROM 1832 UNTIL 1838 THE COLONIAL OFFICE showed little inclination to intervene in the Cape's land administration. Other South African events, such as the Kaffir War of 1834-35, D'Urban's frontier policy, and Glenelg's trusteeship system for border tribes, were the subjects which dominated the oceanic mails. In its instructions to Governor D'Urban in 1833, the Colonial Office did ask the governor to investigate the Cape's land system.<sup>49</sup> In 1835 London also ordered the dissolution of the first Cape land board and a reduction in the size of its successor.<sup>50</sup> In the same year the Colonial Office vetoed D'Urban's intention of placing colonists in the Bantu territory annexed by the governor at the conclusion of the Kaffir War.<sup>51</sup> But all of these actions were isolated and were not linked together into any single attitude on the part of the Colonial Office. None challenged the existing methods of land alienation in the colony.

Even news of the Great Trek did not produce any significant reassessment of Cape conditions, although one reason the governor gave for the exodus was that the farmers had never received titles for the lands they occupied.<sup>52</sup> Lord Glenelg, Colonial Secretary from 1835 to 1839, expressed a wish that the governor would remove as many of the causes of the Boers' dissatisfaction as possible, including the undertaking of new surveys and the preparation of diagrams at government expense,<sup>53</sup> but he did not view the Trek as the result of problems at the Cape. The motives of the Trekkers were obvious:

They are the same motives as have in all ages impelled the strong to encroach on the weak and the powerful and unprincipled to wrest by force or fraud from the comparatively feeble and defenseless wealth or property or dominion. Richer pastures, more numerous herds and a

49. Stanley to D'Urban, dispatch 4, 8 Nov. 1833, C.O. 49/25 (P.R.O.).

50. Aberdeen to D'Urban, dispatch 36, 11 April 1835, G.H. 1/21 (Cape).

51. Glenelg to D'Urban, private and confidential, 20 Oct. 1835, C.O. 48/161 (P.R.O.).

52. D'Urban to Glenelg, dispatch 48, 29 July 1837, C.O. 48/172 (P.R.O.); Glenelg to Lt. Gov. Stockenström, 29 Jan. 1839, C.O. 49/29 (P.R.O.).

53. Glenelg to Napier, dispatch 112, 15 Sept. 1838, G.H. 1/25 (Cape).



wider range of territory, opportunities of uncontrolled self indulgence and freedom from the restraints of law and settled society, are it would appear in all countries, irresistible temptations to the Inhabitants of the Borderlands of civilization.<sup>54</sup>

Thus the great crises of the 1830's were acted out with little concern on the part of the Colonial Office for the less dramatic but contributory problems in the colony. In 1838, however, the colony itself unwittingly aroused Glenelg's interest in Cape lands. After another cycle of correspondence on land policy, the colony appeared to have enforced London's decrees, but the situation was a virtual repetition of the episode of 1832.

In 1837, Governor D'Urban's legislative council, an institution created by the Colonial Office in 1834, recommended a revision of the tax structure of the colony as a way to obtain greater sources of revenue. The council suggested that custom duties be raised and that land be sold by public auction. The selling of land by auction was one of the less important reforms recommended by the council, but the council saw that in order to establish the system changes would have to be made in the land administration. The council recommended that a new board of commissioners be appointed to receive all applications for land and that no grant be made until the land had been surveyed, the deeds drafted, and the land put up to auction and sold to the highest bidder.<sup>55</sup>

Some land, chiefly town lots, had been sold by auction since before the Cradock regulations were published in 1813. Also, in the more settled areas, strips of land of use only to adjacent owners had been disposed of at valuation, a system which was also quite old. Valuation and auction (in both quitrent and freehold tenure) were certainly methods used for disposing of some land after 1813, but they, along with the gratuitous grants made by the governors, were incidental to the perpetual quitrent system.<sup>56</sup> According to the council's report of 1837, one of the minor avenues of alienating land was to be enlarged to cover the disposing of land in the whole colony.

Governor D'Urban sent the council's minutes to London as a

54. *Ibid.*, dispatch 15, 28 Nov. 1837, G.H. 1/24 (Cape).

55. D'Urban to Glenelg, dispatch 1, 1 Jan. 1838, C.O. 48/187 (P.R.O.); Russell to Napier, dispatch 125, 17 Nov. 1840, G.H. 1/27 (Cape).

56. Land Board to Secretary to Government, 8 Oct. 1830, C.O. 374 (Cape); Michell to Vernon Smith, 9 April 1841, C.O. 496 (Cape); enclosures in Napier to Stanley, dispatch 97, 14 May 1842, G.H. 28/18 (Cape).



routine matter. He did not attempt to implement any of the suggestions, but when Glenelg received the report the attraction of obtaining more revenue for the colonial government was hard to resist. While reserving for later consideration all other recommendations in the council's report, Glenelg immediately concurred in the "expediency of adopting regulations for the future disposal of crown lands by sale to the highest bidder. . . ."<sup>57</sup> Surprisingly, neither the council, the governor, nor the Colonial Secretary in his dispatch referred to the Ripon regulations of 1831 which supposedly established sale by auction in the colony. Although the council had not suggested that land sold at auction should be granted in freehold tenure, Glenelg assumed that this would be the case, and he closed his dispatch by recommending that perpetual quitrent grantees be allowed to convert their holdings into freehold, too. It will be remembered that freehold and fee simple were the tenures used in the Canadian and Australian colonies. The Cape's quitrent tenure was becoming unique in the Empire of the 1830's, and now it was to be replaced by a "superior" tenure.

From the standpoint of governmental authority over the colony, the conversion principle would compound the persistent problem of dealing with the applications for land. Quite likely, a system for converting perpetual quitrent grants into freehold grants would monopolize the land administration's time to the same degree that the system of reviewing and reassessing quitrents had done. Freehold possessed no advantage for the land department or for the colony. It might have some benefits, however, if it were used after the colony had been successful in getting all of its lands in one government-sponsored tenure.

Prior to receiving Glenelg's order calling for the selling of land by auction, Governor Napier had received a dispatch prohibiting him from making gratuitous grants.<sup>58</sup> Thus, by 1839 the colony had received three orders on land policy: the use of auction in

57. Glenelg to Napier, dispatch 119, 3 Oct. 1838, G.H. 1/25 (Cape).

58. The letter arose from a grant that D'Urban had intended to make to an officer in 1836, but which had not been officially confirmed until 1838. In one of those rare instances, and contrary to the usual practice, the matter was referred home for the Colonial Secretary's approval. Glenelg sanctioned the grant, but he wrote that his confirmation was not "to form a precedent for any other grants and that it is to be understood that the principle laid down by Lord Ripon as to the disposal of Crown Lands is henceforth to be rigidly observed." *Ibid.*, dispatch 64, 15 May 1838, C.O. 49/32 (P.R.O.).

disposing of land, the conversion of quitrents into freehold titles, and the prohibition against free grants of land. The colony's response again illustrated the breakdown in communications between London and Cape Town and the influence of Cape officials in determining policy.

The prohibition against gratuitous grants was respected, but only after all existing claims for free grants of land had been complied with. Few free grants had been made in the 1830's, but it was not until 1842 that all claims had been acted upon.<sup>59</sup> No publicity was given to the restriction nor to the system for converting quitrent lands into freehold tenure. An arrangement was worked out between the surveyor general and the Cape executive by which anyone desiring to get a freehold could pay the equivalent of from eighteen to twenty-three years of his annual quitrent.<sup>60</sup> It is extremely doubtful that many conversions were made, because when the principle was later introduced in 1843-44 the government's announcement implied that it was beginning a new policy in the colony.<sup>61</sup>

The third order from London, calling for the selling of land by public auction, was given token implementation. Some lots, chiefly those in urban areas, were put up for sale at auction in 1839, and for the next few years a few thousand acres were sold in this method. But since auction had been used for special classes of land prior to the receipt of Glenelg's dispatch, it may be argued that the colony showed no particular response to London's directive. Since land was also granted gratuitously or by valuation without competition after 1838, the spirit of London's order was not kept. In its official reports on alienation, the land board continued to classify together sales by auction and sales by valuation until 1841. At no time did the governor or the board set a uniform upset price for the lands exposed to auction.

Governor Napier thought it necessary to send copies of Glenelg's dispatches of 1838 to the surveyor general, who was in

59. A majority of the gratuitous grants were for town lots or small farms held by soldiers or servants of the crown. Napier approved eighty-one such titles from 1838 to 1842. "Return Showing the Number and Extent of Gratuitous Grants of Land made since the Period of the Assumption of the Government by His Excellency Sir George Napier," enclosure 2, Napier to Stanley, dispatch 97, 14 May 1842. G.H. 28/18 (Cape).

60. Michell to Vernon Smith, 9 April 1841, C.O. 496 (Cape).

61. Cape Town *Government Gazette*, 10 Nov. 1843, 8 Jan., 15 May 1844; *Report of the Surveyor-General on Land Tenure*, p. 10. See chap. x, p. 175, below.

England on a leave of absence. Michell was asked to discuss with the Colonial Office "the arrangements it will now be necessary to make in order to carry the recent Instructions into effect respecting the public sale of all Government Land."<sup>62</sup> Michell, in a single letter to the Colonial Office, drew attention to the fact that his department was faced with old applications for land that had to be acted upon before his office would be relieved from its "complicated embarrassment." He dwelt on the need for more personnel; in particular, he wanted a branch office established in the eastern section of the colony and an additional assistant surveyor general. Also, although the powers of the local officials had been somewhat curtailed through the employment of the surveying commission system, the surveyor general wrote:

the Civil Commissioners are each of them a Surveyor General of the Colony in their respective Districts, and the Surveyor General of the Colony is an irresponsible clerk to the above Officers acting almost entirely upon their reports and representations.<sup>63</sup>

Michell did not discuss how he would institute a system of public auction for all Cape lands. The Colonial Office did not press him for further statements. A new colonial secretary, the Marquis of Normanby, had succeeded Glenelg and seemed to be but vaguely informed of Glenelg's land policy and of the colony's land problems. Normanby told Napier that he would refrain from making any changes in the land administration until he heard from the governor, but he would approve "such measures as you may judge to be indispensably necessary for the effective execution of this branch of the public service."<sup>64</sup> Not once in any of his dispatches to the governor did Normanby ask for a review on the operation of the Glenelg principles of 1838. In his replies, the governor did not raise the subject either.

One result—a minor one—of Napier's communication with Michell and Michell's letter to Normanby was that the governor removed the civil commissioners from one aspect of the land administration: the distribution of the completed titles. Clerks of the district magistrates (who usually were the civil commissioners, too)

62. Michell to James Stephen, 7 June 1839, enclosure in Normanby to Napier, dispatch 45, 29 June 1839, G.H. 1/26 (Cape).

63. *Ibid.*

64. Normanby to Napier, *ibid.*

were given the responsibility and were to report regularly on the deeds not claimed.<sup>65</sup> The change relieved the civil commissioners, who had inherited almost all of the duties of the landdrosts, from one chore. If the clerks sent in reports, the land department would be better informed of the value attached to titles by the colonists. The reform, then, was another small step taken to improve the land alienation system. More important, however, was the governor's appointment of a second assistant surveyor general to assist Michell. The governor did not establish a branch office of the land department in the east, but the new assistant was assigned to direct the resurveying of ground in the eastern districts. Neither reform was a preparation for the adoption of a new land code.

For two years, from October 1838 to November 1840, there was scant evidence in the letters sent and received by the Colonial Office that it had ever been London's intention to introduce an imperial land code in the colony. The Cape, attempting to perfect its machinery for enforcing the Cradock regulations of 1813 and the reformed regulations of 1828, was too busy disposing of the legacy of D'Escury and the first land board to give substance to London's directives. From 1828 to 1840, the Colonial Office's policies for controlling the alienation of land at the Cape were marred by their own inconsonance. London did not attempt to correct its deficiencies until the 1840's.

65. Cape Town *Government Gazette*, 14 Feb. 1840.

## CHAPTER TEN. IMPERIAL LAND POLICIES AND THE CAPE, 1840-44

LONDON'S CONTACT WITH THE COLONY'S LAND problems had always been irregular and superficial and was to remain so in the 1840's. After 1840, however, the Colonial Office did show a more determined attitude in providing instructions for the alienation of land at the Cape. Drawing strength for its convictions from the ideas of the systematic colonizers, the land practices in the United States, and its own Colonial Land and Emigration Commission, the Colonial Office overrode the objections of the colonial governor and the land department in its new insistence that the Cape was to have an imperial land code. By 1844 London had succeeded in requiring the Cape to dispose of crown land only at auction and at a minimum upset price of two shillings per acre.

The Colonial Office's code was ill-timed and too rigid for a colony whose land department was still struggling to enforce the land law of 1813. Disorder and disappointment reappeared in the Cape's land system. Land put up at auction was not purchased, yet there were colonists who had no legal right to the lands they claimed and held. New lands—and those which had been applied for after 9 January 1832—were to be granted in freehold tenure, but the new tenure was introduced before all grants in quitrent were completed and while there were still loan farms in the colony. Auction sales did not result in any appreciable increase in the government's revenue or in the proficiency of the land department. The actual costs of administration increased because land had to be surveyed before sale could take place, and unpurchased land meant that the government could not recover the money spent on the surveys. The colony's history of inaccurate surveys meant, too, that before land could be sold, the land department had to review the land claims in the area and had to ascertain what was government land. Despite their shortcomings, the new regulations were to remain in force because London considered the principles of its land code to be more important than the actual results.



I. SHORTLY AFTER LORD JOHN RUSSELL BECAME Colonial Secretary in late 1839, he created the Colonial Land and Emigration Commission in direct response to the recommendations of a report prepared in 1836 by a House of Commons' committee on waste lands. H. G. Ward, chairman of the select committee, was one of Edward Gibbon Wakefield's disciples in parliament. Wakefield himself was the chief witness before the committee, and the committee's report was a précis of the ideas that he had set forth in his *Letter from Sydney and England and America*.<sup>1</sup>

Both Wakefield and the committee were impressed with the operation of the land law of 1820 in the United States, which provided for the selling of land by auction in plots of no less than eighty acres at a minimum upset price of \$1.25 per acre. Wakefield maintained that the American law contributed to the rapid expansion and development of the new states:

What is a new state formed in the western deserts of America, if it be not a new colony? Yet how marked is the contrast between the immediate prosperity of one of those new colonies, and the early misery of one of those which were planted on the eastern coast of America! To whatever extent we may suppose that the prosperity of the newest colonies arises from caution and regularity in the disposal of waste land, so far shall we attribute the early misery of the oldest colonies to profusion and irregularity. If some degree of caution and regularity in the disposal of waste land ensure the immediate prosperity of a new colony, it seems clear that the prosperity of a new colony would be much greater, and much more rapid, under the proposed system of selling all new land and converting all the purchase-money into the most productive labour.<sup>2</sup>

If Britain would adopt a standard land code providing for the selling of land at a minimum but "sufficient" upset price "under a system of superintendence similar to that of the United States,

1. Wakefield's testimony and comments on the members of the select committee of 1836 are found in Bell and Morrell, eds., *Select Documents on British Colonial Policy, 1830-1860*, pp. 214-18. Wakefield's writings have been collected and edited by R. C. Mills in *A Letter from Sydney and Other Writings by Edward Gibbon Wakefield* (London: E. P. Dutton, 1929). The committee's minutes of evidence and recommendations are in "Report from the Select Committee on the Disposal of Lands in the British Colonies," 1 Aug. 1836, G.B., *Sessional Papers*, 1836 (512), XI.

2. Mills, ed., *A Letter from Sydney and Other Writings*, p. 190.

and with the guarantee of an Act of Parliament,"<sup>3</sup> her colonies would become as prosperous as the American states.

The committee applauded Ripon's attempts of 1831 to provide a system of sale by auction at minimum prices in Australia, North America, and the Cape,<sup>4</sup> but they wanted parliament to strengthen the system by enacting it into law. Also the committee wanted a central land board established in London to supervise land sales and emigration. Reflecting again Wakefield's argument, the committee presumed that the income from sales would be used as an emigration fund, and thus a perpetuating harmony among land, capital, and labor would be achieved within the Empire—"each Colony being furnished with emigrant labour in exact proportion to the amount of its own Land Sales."<sup>5</sup>

Russell's Colonial Land and Emigration Commission, composed of T. F. Elliot, Robert Torrens, and Edward V. Villeris, was the embodiment of the select committee's philosophy on land sales and emigration. The commission, working through the Colonial Office, was to supervise colonial land policies and to use surplus revenue from sales for emigration. Because of its earlier action in establishing land codes and its more advanced political machinery, Canada, for the most part, escaped from the activities of the commission, and it was chiefly Australia and New Zealand which were to receive the attention of the commission. The commission was also to be a clearing house for information on the colonies and a collector of statistics on the operation of land codes in the colonies.<sup>6</sup>

One of the first tasks of the commission in 1840 was the compiling of a report on the operation of the colonial land laws since the publication of the Ripon regulations of 1831. When it came to the Cape, the commission found that the Blue Books gave no accurate figures on the alienation of land and that other sources available

3. "Report from the Select Committee on the Disposal of Lands in the British Colonies," p. 1.

4. See chap. ix, pp. 149-52, above.

5. "Report from the Select Committee on the Disposal of Lands in the British Colonies," pp. 1-2.

6. "Instructions to the Colonial Land and Emigration Commissioners," 10 Jan. 1840, G.B., *Sessional Papers*, 1840 (35), XXXIII, 3-4; Russell to Napier, dispatch 33, 29 Jan. 1840, G.H. 1/27 (Cape). It should be noted that in the beginning the commission favored sale at a fixed price rather than sale at auction, but by 1843 both the Colonial Secretary and the commission supported sale at auction. An excellent account of the commission's philosophy on land sales and interest in emigration to the Cape is that of H. M. Robertson, "The Cape of Good Hope and 'Systematic Colonization,'" *South African Journal of Economics*, V (Dec. 1937), 370-411.

did not clearly state the mode of alienation and the systems of tenure in use.<sup>7</sup> The lack of sufficient information on the Cape land system prompted Russell to write two firmly worded dispatches to Governor Napier in November 1840. In one, Russell expressed shock over the allegedly conflicting statements in the Cape's Blue Books:

It has been understood, indeed, for many years past, that no good land, or land available for purposes of agriculture remains unappropriated; and I find it stated in the Blue Book for 1838 . . . that the Want of Water in most parts of the Colony, renders it extremely probable that very little land available for agricultural, or grazing purposes not already applied for, is worth the expense of measurement. Still I observe that during that year not less than 6,473,066 acres were granted on quit rent, and that above 8 millions had been granted on similar terms during the preceding years, while above 40,000 acres were sold during both years.<sup>8</sup>

Unfamiliar with the Cape's perpetual quitrent system and the Cape's administrative difficulties in issuing tardy titles, the Colonial Secretary insisted that the governor provide a full explanation of all land alienated from as early a period as possible. This was the first time since 1823 that London had asked for such a report on land alienation. There had been requests for investigations on some phase of land operations, but a full report was something new. During the century, in fact, the Colonial Office had asked for only three land reports: in 1815, 1823, and 1840. Russell's letter thus initiated a new, almost hostile, concern by the Colonial Office for the Cape's land affairs.

In his second dispatch to Napier in November 1840, Russell asked why the Ripon regulations of 1831, the Cape's legislative council's recommendations of 1837, and Glenelg's orders of 1838<sup>9</sup> had not been enforced:

I am now desirous of learning whether any and what arrangements have been made for carrying into effect these views of the legislative council and of Her Majesty's Government, and if no steps have been taken, or no material progress has been made towards the accomplish-

7. "Return Showing the Total Quantity of Crown Lands or of Land Subject to the Disposal of the Crown . . . which has been sold in each of the Colonies of Great Britain during Each Year since 1 January 1831," 18 July 1840, G. B., *Sessional Papers*, 1840 (510), XXXIII, 5; Russell to Napier, circular, 21 Dec. 1840, G.H. 1/27 (Cape).

8. Russell to Napier, private and separate, 17 Nov. 1840, C.O. 49/34 (P.R.O.).  
9. See chap. ix, pp. 154-56, above.

ment of that object, what the reasons are which retard or prevent the adoption of the system which prevails in every other considerable colonial possession of the crown, toward which British emigration is directed.<sup>10</sup>

The Colonial Office was not really interested in obtaining a full knowledge of the operation of the Cape land laws; its concern was for the implementation of a system of public auction and minimum upset prices and for greater unity in land alienation codes within the Empire—such as was to be done in the case of the imperial act of 1842, which provided one philosophy and one system for the colonies in Australia and New Zealand. Although Russell wrote to the Cape's surveyor general, who was still in England, for his comments on the amount of land which could be sold, the Colonial Secretary did not take the time to interview Michell or to reply in any detail to Michell's report. Michell framed a weighty case against the introduction of a new land policy for the colony. Auction sales had always produced a small return whenever they had been held in the colony. Valuation, a system used for disposing of waste land adjacent to existing grants, needed to be continued since surveying mistakes had resulted in patches of unalienated land. If this land were put up to auction, there might not be a buyer or the purchaser might not be the adjacent farmer who could best utilize the small grant. Michell asked for freedom to continue the Cape's existing land system and for assistance in completing all of the applications for land in perpetual quitrent. Before any new code could be effective, the Cape would have to undertake an extensive surveying program to determine what lands were available for occupation.<sup>11</sup> If the surveyor general's remarks had received a more thorough examination by the Colonial Office, London might have given the Cape officials more latitude in enforcing its regulations on the selling of land, but Michell's letter had little influence.<sup>12</sup>

In his reply to Russell's dispatches of November 1840, Napier continued Michell's arguments: who would buy land put up to auction at a minimum upset price when comparable land had been alienated under low quitrents? The perpetual problem of

10. Russell to Napier, dispatch 125, 17 Nov. 1840, C.O. 49/34 (P.R.O.).

11. Michell to Vernon Smith, 9 April 1841, C.O. 496 (Cape).

12. Russell to Napier, dispatch 187, 26 June 1841, G.H. 1/28 (Cape).



arrears from quitrents argued against the success of any new system designed to increase the government's revenue from land. Then, too, the Cape was still wrestling with the heritage of its earlier land administrations:

The perplexities occasioned in the land department by the villainy or gross inefficiency of several of the surveyors formerly employed in the districts is abundantly well known in your Lordship's department; and to the rectification of these surveys the whole attention of the surveyor-general's office has been and must long continue to be directed, for until these matters are set to rights, the lands yield no revenue whatever.<sup>13</sup>

Napier wished that a surveyor general's department had been established before any land had been alienated by the British, and he also wished that a general survey of the Cape had been made before titles had been issued. In a jab at the Wakefieldian idea of land sales paying for an emigration program, he declared that all future income from the Cape's lands would have to be spent on the remeasuring of grants deeded or claimed. There would be no surplus for a resettlement scheme.<sup>14</sup>

While waiting for Russell's answer to his protests, Napier discussed with the land department the possible results of London's policy of auction sales at a minimum upset price. Since the quality of the Cape's land varied so greatly and since millions of acres had been granted at low, almost nominal quitrents, Napier doubted if fixed minimum upset prices would work. Yet, as he wrote the land board,

the instructions of Her Majesty's Government seem to admit of no departure from the latter course and it may thus happen that from want of competition and from other causes, these lands might, if sold, produce a less return to Government than if they were granted on valuation, or even on perpetual quit rent, so that the principle now generally adopted in regard to the disposal of crown lands might, in this colony be found to produce effects altogether contrary to those expected from its application.<sup>15</sup>

The governor also asked the board if it would be wise to stop acting upon all new applications for land until it had disposed of the bulk of the requests for perpetual quitrent grants.<sup>16</sup>

13. Napier to Russell, dispatch 19, 15 March 1841, G.H. 23/13 (Cape).

14. *Ibid.*

15. Bell to Land Board, 23 March 1841, L.B. 99 (Cape).

16. *Ibid.*



The board agreed that any new land code would be detrimental to the interests of the government and that now it might be best to concentrate all energy on disposing of the old claims made prior to 1832.<sup>17</sup> The board's reply was framed in May, but it was not transmitted to the governor until October. The delay was due to the board's desire to review the amount of work connected with the processing of old claims and to watch a few sales by auction in which no minimum prices had been set.<sup>18</sup> By October, however, Napier had received another dispatch from Russell which showed London's unsympathetic attitude to the Cape's administrative problems. Although Russell accepted Napier's argument that the Cape could not afford to participate in any imperial emigration program, he did not rule out the applicability of selling land at auction and at a minimum upset price.<sup>19</sup>

In September 1841, Stanley replaced Russell as colonial secretary, but there was no noticeable change in the Colonial Office's opinion that an imperial land policy was best for the Cape, and the Colonial Land and Emigration Commission provided unexpected continuity in the Colonial Office's position. Stanley, who has been described as "too pugnacious and rhetorical, too aristocratic and too authoritarian,"<sup>20</sup> had not followed up the Ripon regulations of 1831 when he served as colonial secretary in 1833.<sup>21</sup> But he was an administrator who "regarded the colonies as integral portions of the British Empire, no doubt, but as essentially subordinate, owing loyalty to the policy of the Queen's ministers as well as to the Queen's person."<sup>22</sup> Stanley also had a talent for writing curt dispatches to Napier.

In December 1841 the Colonial Office received Napier's Blue Book for 1840, which contained figures on the amount of land granted in perpetual quitrent and the amount disposed of by valuation and auction. Stanley thought the report showed a complete disregard for Russell's dispatches of November 1840 and Glenelg's dispatches of 1838, all of which stipulated that land should be sold at auction at a minimum upset price. Stanley ignored the explanations made by Michell and Napier in 1841 on

17. Land Board to Secretary to Government, 18 May, 7 Oct. 1841, G.H. 28/18 (Cape).

18. *Ibid.*

19. Russell to Napier, dispatch 187, 26 June 1841, G.H. 1/28 (Cape).

20. *C.H.B.E.*, II, 359.

21. Stanley to D'Urban, dispatch 4, 8 Nov. 1833, G.H. 1/20 (Cape).

22. *C.H.B.E.*, II, 359.

the continued necessity of issuing perpetual quitrent titles for land claimed prior to 1832. Instead, he wrote the governor:

I am not however aware of the existence of any legal authority which warranted your disposing on these terms of the lands of the Crown in the Colony under your Government. . . . I cannot therefore acknowledge any alienation of crown property which may thus have been made by you. . . . I cannot admit that Instructions of so high a nature can be disregarded or set aside except with the express authority of the Sovereign herself.<sup>23</sup>

Until Napier could provide an acceptable justification for his land alienation policies, the holders of new deeds were to be "apprised of the doubt which hangs on their titles."<sup>24</sup>

Stanley's presupposition that all land grants in the colony since at least 1838 had been made under an auction system with a minimum upset price fixed to each acre was reminiscent of Bathurst's position in 1826 that all deeds in the "frontier districts" had carried his slave prohibition clause.<sup>25</sup> However, Stanley was far more forceful in his policies than was Bathurst. There was little room for compromise in 1841.

Napier was troubled by Stanley's dispatch. Earlier he had refused Michell's request to suspend auction sales. The surveyor general made the suggestion because at a recent auction the majority of lots had not been purchased and the government was left with a large bill from the surveyors. The governor told the surveyor general that auction would have to be continued as a form of alienation for at least some lands because of London's new commands.<sup>26</sup> Now the governor had to justify the Cape's entire land alienation system. He asked the land department to prepare returns on the amount of land granted gratuitously and by valuation during his governorship. He also asked for a list of all plots sold at auction since his arrival.

The board found it easy to explain the continuation of perpetual quitrent grants; after all, the government was merely giving ex post facto legality to what had been claimed by the colonists before 1832. The eighty-one free grants made by Napier were also easy to justify since they were made to fulfill promises of previous

23. Stanley to Napier, dispatch 21, 31 Dec. 1841, C.O. 49/34 (P.R.O.).

24. *Ibid.*

25. See chap. vi, p. 91, above.

26. Letter and marginal comments, Michell to Craig, 18 Feb. 1842, C.O. 508 (Cape).

governors; the governor had not violated Glenelg's order of 3 November 1838.<sup>27</sup> The board showed that valuation had been used to dispose of tracts of land which were valuable only to the adjacent holders and that such a system was necessary in a colony in which settlement had preceded survey. It urged the continuation of valuation as a means to correct titles already issued and to dispose of land of limited value.<sup>28</sup> A total of seventy-six grants had been put up to auction since Napier's arrival in the colony, but no upset price had ever been fixed. According to the board the low returns from auction sales were indications of the low values land had in the colony and of the unsuitability of using auction on a large scale.<sup>29</sup>

Napier sent the detailed reports of the land department under a covering letter in which he admitted that although he had been instructed to make grants only at auction at an upset price, he had never received a fixed price from London. This was true. He said he hoped he had adequately explained his past actions and looked forward to additional instructions from Stanley.<sup>30</sup>

The governor did not have to wait long for a restatement of London's views. Before his May dispatch reached London, Napier received more distressing news from Stanley. The Colonial Land and Emigration Commission had been told by a merchant house which was anxious to buy land in the eastern part of the colony that the Cape did not have any known system of land alienation by auction and did not possess a recognizable land department.<sup>31</sup> Responding to the merchant's information, the commission drew up a plan for a new land system at the Cape. A minimum upset price of two shillings, six pence per acre was to be established as the standard for the colony. All sales would be at auction in freehold. An applicant was to deposit the estimated cost of survey

27. "Return showing the Number and Extent of Gratuitous Grants of Land made since the Period of the Assumption of the Government by His Excellency Sir George Napier," enclosure 2 in Napier to Stanley, dispatch 97, 14 May 1842, G.H. 28/18 (Cape).

28. "Statement showing what Waste Crown Lands have been Granted at a Valuation since His Excellency Sir George Napier assumed the Government of the Colony," enclosure 1, *ibid.*

29. "Statement showing what Lands have been sold by Public Sale and the Amount Realized during the Time of His Excellency Sir George Napier's Government," enclosure 3, *ibid.*

30. Napier to Stanley, *ibid.*

31. Maynard Brothers to Colonial Land and Emigration Office, 15 Jan. 1842, enclosure 2 in Stanley to Napier, dispatch 34, 6 Feb. 1842, G.H. 1/29 (Cape).

for land he desired; if no objection was found in a preliminary examination of the request, the land was to be inspected, surveyed, and exposed at auction at the minimum upset price. If the original applicant did not become the purchaser, the successful bidder was to pay for the survey and the government in turn would return the deposit to the original applicant. A standard surveying charge of six pence per acre was recommended.<sup>32</sup> Stanley sent the commission's plan to Napier and asked for the governor's opinion.

The governor turned the dispatch over to Michell and the land department. The surveyor general was highly incensed by the commission's accusation that the Cape possessed no known system of handling requests for land.<sup>33</sup> Yet he had to admit to the governor that he was

not aware that since the cessation of the practice of granting in quit rent upon applications not of a date prior to January 1832 any notification has been issued informing the public that in future all lands would be sold by auction, and that it is very desirable that the utmost publicity should be given to every measure determined upon by the Government regarding the alienation of lands.<sup>34</sup>

The surveyor general scanned the commission's suggested plan and diagnosed it as harmful to the interests of the government and the colonists. The land board needed to keep its right to act as it thought fit on the applications for land. Some land in the colony might be sold at auction, just as some had been disposed of in this way in the past. Other land had to be given by valuation, and still other grants had to be made in perpetual quitrent because of the government's notice of 1832. No single system—especially one that would sell land at a minimum upset price of two shillings, six pence per acre in freehold—would fit the Cape's situation. A standard surveying fee of six pence per acre was even too high for the Cape.<sup>35</sup> London had to be shown that any impe-

32. Colonial Land and Emigration Office to James Stephen, 27 Jan. 1842, enclosure 1, *ibid.*

33. In the margin of the copy of the letter from Maynard Brothers to the commission, the word "fudge" in Michell's handwriting appears after the allegation.

34. Michell to Acting Secretary to Government, 14 July 1842, G.H. 28/18 (Cape).

35. Michell applied the six-pence-per-acre survey charge to a recent grant of 44,496 acres made in Clan William. The surveying fee would have amounted to £111, or almost three times the actual cost of the survey. The land, which could be used only four months out of the year, was not worth six pence per acre. The annual quitrent affixed to the property was £2.10. *Ibid.*



rial policy was inappropriate for a colony like the Cape, yet Michell was not optimistic that this could be done: "I feel how difficult it is to impress any one in England with anything like a correct notion of the character of this country."<sup>36</sup>

Michell proposed an alternative plan that gave token recognition to London's plan. An applicant for land was to deposit the estimated cost of inspection and survey; if the land department found no objection, the land would be surveyed, inspected, and diagramed. Then the board was to consider the best method of alienation. Both valuation and auction were to be used. Of course, perpetual quitrent would be used for the old applications on file. If the land were to be sold at auction in freehold, the land board would fix a minimum upset price. The price would vary from lot to lot, depending upon the actual worth of the property.<sup>37</sup> There was to be no significant increase in surveying charges since the fees were already adequate to cover the actual costs of survey.<sup>38</sup>

The land board and the governor supported Michell's plan,<sup>39</sup> which merely codified or described his current practices. Napier urged the Colonial Office to accept the use of valuation and public auction without a rigid upset price as the new system for the Cape.<sup>40</sup> London's answer was predictable. The Colonial Land and Emigration Commission had made its point that the Cape did not possess an orderly, successful land alienation system. Valuation was not a very dynamic principle compared to public auction and fixed upset prices. Stanley dismissed Michell's proposal:

You will therefore understand that for the present, the public lands at the Cape are only to be disposed of at Auction, and when the case arises in which it may be necessary to ascertain by valuation, the price which should be demanded for lands under peculiar circumstances, the price so ascertained must be made the upset price at auction.

I have further to instruct you that no land is to be put up at less than 2 shillings per acre. . . .<sup>41</sup>

36. *Ibid.*

37. "System by which it is proposed to act in cases of application for any of the yet ungranted land belonging to the Crown at the Cape of Good Hope," enclosure, *ibid.*

38. "Tariff of Charges Allowed to be made by Qualified Land Surveyors when employed by Government from the first of November 1841," enclosure, *ibid.*

39. Land Board to Secretary to Government, 7 Oct. 1841, enclosure in Michell to Acting Secretary to Government, 14 July 1842, G.H. 28/18 (Cape).

40. Napier to Stanley, dispatch 141, 25 July 1842, G.H. 28/18 (Cape).

41. Stanley to Napier, dispatch 210, 27 Jan. 1843, G.H. 1/30 (Cape).



At last a minimum upset price had been given for the colony. The system of valuation was to be used only as a means to determine a price higher than the minimum. Sale at auction in freehold was to be the only mode of alienation.

When Napier received the Colonial Secretary's order on 26 April 1843, he and Michell dutifully framed the regulations for publication in the colony, but the two delayed the promulgation of the decree for six months. In the meantime, Michell prepared a new protest against such a high minimum upset price.<sup>42</sup> On 8 September 1843, the Cape Town *Government Gazette* proclaimed that land was to be sold by public auction at a minimum upset price of two shillings per acre and that the new tenure would be that of freehold. Stanley paid no heed to Michell's latest protest. In 1844 he instructed the new governor, Sir Peregrine Maitland,<sup>43</sup> that the new system was to be permanent and that no change would be made in the minimum upset price set for the Cape.<sup>44</sup> London had succeeded in putting down all colonial objections to its land policy.

II. THE COLONIAL OFFICE'S VICTORY WAS CONSOLIDATED by the appointment of a new governor who had not participated in the Cape Town-London squabble over land policy, but the operation of the new code showed that the Cape received few advantages from the change in law. On the contrary, the immediate results were disastrous. Fifty-five lots, ranging in size from one hundred to seven thousand acres, were surveyed and put up for auction at the minimum upset price in April 1844. Only three were sold and the price paid was no more than two shillings per acre. The remaining fifty-two were left as a deficit to the government.<sup>45</sup> By the end of 1844, 29,402 acres had been sold at auction; in 1845, 27,324 acres were sold; but in 1846, only 10,418 acres

42. Napier to Stanley, dispatch 188, 21 Sept. 1843, G.H. 23/14 (Cape).

43. Maitland, governor from 1844 to 1847, was a veteran of the Napoleonic Wars and had seen service in India. Before coming to the Cape, he served as lieutenant governor of Upper Canada and Nova Scotia. Although he was only in his sixties, he has been described as a man too old to understand and handle the Cape's many problems. *C.H.B.E.* (1963 ed.), VIII, 341.

44. Stanley to Maitland, dispatch 14, 4 Feb. 1844, G.H. 1/31 (Cape); Cape Town *Government Gazette*, 17 May 1844.

45. Cape Town *Government Gazette*, 11 April 1844.

were purchased.<sup>46</sup> From 1829 to 1840, the government disposed of 321,178 acres at auction (without fixed prices) and by valuation; the average annual alienation rate for those years was 26,765 acres.<sup>47</sup> Thus, the new annual rate by auction did not exceed the old figure.

An overwhelming number of the lots put up for sale under the new system were for plots containing less than five hundred acres. From 1844 to the end of 1846, only twenty-four of the 333 lots sold were in excess of five hundred acres each. The average size of the plot auctioned off in 1845 was 325 acres; in 1846 it was 97 acres.<sup>48</sup> Obviously, farmers and graziers needing large tracts of land were not obtaining them through the auction system. Then, too, the land department found that it was more convenient to sell land in the older districts of the colony, where more surveying had taken place and where land had a special value. Almost 60 per cent of the land sold from 1844 to 1846 was in the Cape district, whereas Graaff Reinet reported only eight sales in the three-year period, and Beaufort none. (Table 10 shows the selective distribution of titles for land sold from 1844 to the end of 1846.) This pattern continued into the following years. Although in 1847, 63,312 acres were sold—the highest amount in any one year—more than 80 per cent of the sales were in the western province of the colony. In 1848, 36,793 acres were sold, of which more than 60 per cent were in the west.<sup>49</sup>

The Colonial Land and Emigration Commission members were pleased to report in 1845 that the sale price for lands exposed to auction was exceeding two shillings per acre,<sup>50</sup> but despite London's continuing optimism over the success of the auction principle at the Cape, it was quite evident that the lands purchased were those which had an exceptional value. For the same

46. "Seventh General Report of the Colonial Land and Emigration Commissioners," G.B., *Sessional Papers*, 1847 (809), XXXIII, Appendix 31, p. 206; "Eighth General Report of the Colonial Land and Emigration Commissioners," G.B., *Sessional Papers*, 1847-48 (961), XXVI, Appendix 22, pp. 70-71.

47. "General Report of the Colonial Land and Emigration Commissioners," 2 April 1844, G.B., *Sessional Papers*, 1844 (178), XXXI, Appendix 15, p. 44.

48. "Eighth General Report of the Colonial Land and Emigration Commissioners," Appendix 22, pp. 70-71.

49. Cape of Good Hope Blue Book for 1848, C.O. 5990 (Cape).

50. "Fifth General Report of the Colonial Land and Emigration Commissioners," G.B., *Sessional Papers*, 1845 (617), XXVII, 22.

reason such lands as town and suburban lots had been sold by auction or by valuation in the past. It would be erroneous to conclude, then, that the auction system in itself elevated the value of land in the colony, for London's principles were applicable in only certain areas of the Cape.

Table 10. *Distribution of titles for land sold by auction from 1 January 1844 to 31 December 1846<sup>a</sup>*

District	Plots under 500 acres each			Plots in excess of 500 acres each			Total of titles issued for land sold
	1844	1845	1846	1844	1845	1846	
Cape	64	57	68	3	4	0	196
Stellenbosch	0	0	9	0	0	0	9
Worcester (including Clan William)	0	3	6	2	0	0	11
Swellendam	1 <sup>b</sup>	1	15	0	0	0	17
George	12	22	8	1	0	5	48
Uitenhage	0	1	0	0	0	0	1
Albany	31	5	0	0	1	0	37
Somerset (including Cradock)	0	1 <sup>b</sup>	0	0	4	1	6
Graaff Reinet (including Colesberg)	3	1	1	2	1	0	8
Beaufort	0	0	0	0	0	0	0
<i>Total</i>	111	91	107	8	10	6	333

*a.* Compiled from Cape of Good Hope Blue Books for 1844-46, C.O. 5986-88 (Cape).

*b.* Free grant made in freehold.

The total amount of land alienated per year dropped sharply after 1844 (see Table 11). The decrease in the yearly alienation figure was because of the curtailment of the use of perpetual quitrent tenure. Disposition of the remaining claims for land made prior to 1832 was one of the major problems of the land department as it tried to equip itself to administer the new code. How would the old system fit in with the new? Would the Colonial Secretary and the new governor allow the department to complete its old business? The surveyor general felt that it was imperative for government to keep faith with those who had asked for land so many years before. The haphazard method of collect-

Table 11. *Total amount of land alienated at the Cape from 1 January 1841 to 31 December 1846 (acres)*<sup>a</sup>

Year	Granted by valuation	Sold at auction	Granted in perpetual quitrent	Total amount alienated
1841	16,754	11,416	3,747,339	3,775,510
1842	18,383	16,788	1,305,206	1,340,377
1843	—49,988 <sup>b</sup> —		1,961,190	2,011,178
1844	o	29,402	1,685,961	1,715,363
1845	o	27,324	322,647	359,971
1846	o	10,418	358,238	368,656

a. Compiled from "General Report of the Colonial Land and Emigration Commissioners," 2 April 1844, Appendix 15, p. 44; "Seventh General Report of the Colonial Land and Emigration Commissioners," Appendix 31, p. 206; "Eighth General Report of the Colonial Land and Emigration Commissioners," Appendix 22, pp. 70-71.

b. Includes both valuation and auction.

ing and filing requests had always made action upon old requests a difficult task. Having to superintend a new system as well, the land department worried about the fate of the old claimants and the land they possessed through virtue of occupation.

Michell asked Napier in November 1843 if he would insert an advertisement in the *Government Gazette* calling for all who had claims for quitrent titles to write to their civil commissioners or to the surveyor general's office so that their memorials could be handled in as quick a manner as possible.<sup>51</sup> The governor, however, told Michell to set aside all remaining applications and concentrate on developing the machinery for selling lands at auction.<sup>52</sup> Michell pleaded for a reconsideration of the governor's instructions; some of the applicants had deposited money for surveys, were living on their land, and were expecting their titles.<sup>53</sup> Napier then relented, and on 5 January 1844 the following advertisement was published:

And whereas it is necessary that all such applications for grants of Land received . . . before the 9th day of January 1832, and upon which no decision has yet been given, should now be considered according to their respective merits, and finally disposed of: all persons whether the original applicants, their representatives, or others, who make claim to grants founded upon such applications, and who have not already forwarded their claims and proofs thereof to the Surveyor General in Cape Town, or to the second assistant Surveyor General in Graham's

51. Michell to Montagu, 1 Nov. 1843, C.O. 515 (Cape).

52. Marginal comments, *ibid.*

53. *Ibid.*, 20 Nov. 1843, *ibid.*

Town, are hereby required to transmit the particulars of their claims, with a Statement as far as [is] in their power, of the situations, boundaries, and extent of the Lands applied for, to the Surveyor General in Cape Town, on or before the 15th March next [1844], after which no such claim will be attended to.<sup>54</sup>

On 15 March 1844 the Cradock regulations of 1813 and the reformed regulations of 1828 came to an end; in this respect, it can be said that the Ripon regulations of 1831 did not actually come into effect until 1844. The change in law did not mean that all those who had anticipated receiving land under the old system had received their titles. Although some quitrent grants were issued in the next few years, they did not represent all of the memorials which had been brought to the various branches of government from 1813 to 1832.<sup>55</sup> The land department officers simply could not give quitrent claims the same attention they had given them from 1835 to 1844, and in the 1850's they were still wrestling with some of the old requests.<sup>56</sup>

The operation of the new law disrupted the efficiency that had been achieved in the land department by 1844. Without the assistance of any general survey of the colony, Michell had to receive applications from would-be purchasers and to select lots which might fetch a price at auction; he had to order surveyors into the field, who frequently had to resurvey old grants before they could measure the new. The land board had to consider the desirability of offering the land for sale and to investigate possible objections. Then a price of two shillings or more per acre had to be agreed upon by the board before the sale could be announced. If any of the land were purchased, the board and surveyor general then had to prepare the titles and render final statements on the costs of inspection and survey. All of these activities took time and energy, and yet there was no guarantee that the lands would be purchased and that the system would result in the transference of titles to the colonists.<sup>57</sup>

54. Cape Town *Government Gazette*, 5 Jan. 1844.

55. The difficulty of acting upon all claims was recognized by Michell in 1841 and 1842. See Michell to Acting Secretary to Government, 15 Oct. 1841, C.O. 496 (Cape); 17 March 1842, C.O. 508 (Cape); 14 July 1842, enclosure in Napier to Stanley, dispatch 141, 25 July 1842, G.H. 28/18 (Cape).

56. Secretary to Government to Land Board and marginal comments, 12 Oct. 1850, 28 Sept. 1852, 20 Sept. 1855, L.B. 100 (Cape).

57. For the administrative problems involved, see Michell to Montagu, 1 May, 8 Sept., 30 Oct. 1843, C.O. 515 (Cape).



An additional administrative burden was placed on the department when the government decided to sponsor a publicized system of conversion of quitrent grants into freehold titles. London had been interested in the proposal for some time,<sup>58</sup> but the program devised in November 1843 was parochial. In order to pay its debts and to raise money for a road construction program, the Cape government offered to commute quitrents and to issue a freehold title if the applicant would pay fifteen years' rent within one year. The program was to be enforced until the government collected £40,000.<sup>59</sup> Loan-farm holders and claimants to quitrent grants were invited to participate if they first obtained proper quitrent titles for their holdings! Before freehold titles could be drafted, the land department had to review its papers on the grant, check on the past payment of rents, and see that the commuted rent was paid within one year.<sup>60</sup> In this process the careless administrative practices of the past reduced the speed at which the department could operate. At first there were only a few requests for conversion. The government thus tried to encourage applications in two ways. By advertisements in the *Cape Town Government Gazette*, it announced it would accept all applications at any time without regard to its first intention of collecting only £40,000 from the program.<sup>61</sup> Secondly, since all future grants in the colony were to be in freehold, the government implied that perpetual quitrent was a less secure tenure, inferior to English freehold without obligation. Yet the conversion system, with its inroads on the time and efficiency of the land department, was hardly worth the effort. After three years of operation, the program had contributed less than £3,000 to the colony's treasury; in 1846, for example, the government collected only £118 from this enterprise.<sup>62</sup>

Although London probably would not have been concerned over the detrimental effects of its land law on the colonial administration—after all, the Colonial Office dismissed Michell's and Napier's reasoning from 1841 to 1843—the Colonial Office might have

58. See chap. ix, p. 155, above.

59. *Cape Town Government Gazette*, 10 Nov. 1843.

60. *Ibid.*; *Report of the Surveyor-General on Land Tenure*, p. 10.

61. *Cape Town Government Gazette*, 12 Jan., 17 May 1844.

62. "Return on Land Revenue and Emigration for each Year from 1837 to the Latest Year for which Returns have been received," 2 March 1848, G.B., *Sessional Papers*, 1847-48 (345), XLVII, 690-91.

become less committed to the new code if it had examined the reports on the annual revenue from the colonial lands. Despite sales by auction and conversions of quitrents, the total income did not increase by any noticeable extent over the previous collections. In 1837 the crown received £21,584 from its land system; in 1846, the amount received was £20,199! (Table 12 shows the annual income from land from 1837 to 1846.)

Table 12. *Land revenue collected at the Cape from 1 January 1837 to 31 December 1846<sup>a</sup>*

<i>Year</i>	<i>Amount paid by quitrent holders (including arrears)</i>	<i>Amount col- lected from auction and from valuation (to 1843)</i>	<i>Amount ob- tained from conversion of quitrent titles to reehold</i>	<i>Total yearly income from Cape lands<sup>b</sup></i>
1837	£13,394	£7,851		£21,584
1838	13,233	6,107		19,706
1839	9,893	3,648		13,795
1840	12,093	7,349		19,692
1841	17,710	3,031		21,553
1842	13,696	2,819		16,558
1843	13,374	1,252	£ 177	15,487
1844	15,977	8,080	2,214	26,887
1845	14,219	5,585	212	20,609
1846	12,765	6,604	118	20,199

a. Compiled from "Return on Land Revenue and Emigration for each Year from 1837 to the Latest Year," pp. 690-91.

b. Includes miscellaneous income, such as fees for tree cutting in the forest preserves.

The new land code did not relieve the government of one of its fundamental problems: how to increase its internal income. On the other hand, the costs of administering the land system increased. The substitution of one land code for another did not improve either the position of the government or the position of the colonist. But London's attitude was to remain firm. In remarking upon the publication of the new system in the Cape Town *Government Gazette* of 8 September 1843, Stanley wrote: "I observe that the first rule [in the announcement], in establishing sale by auction, adds 'at least for the present and until Her Majesty's Government shall see fit to make alterations in this respect.' These words are unnecessary and should be omitted."<sup>63</sup>

63. Stanley to Maitland, dispatch 14, 4 Feb. 1844, G.H. 1/31 (Cape).

In the 1820's London entered into the Cape land system on behalf of greater goals and projects: in the 1830's her intervention was because of her anti-Boer feelings and her conviction that a uniform imperial land code was desirable; in the 1840's her conviction was energized into firm policy—the Cape had to conform to London's principles. The anti-Boer feeling was replaced by a posture which maintained that there was nothing unusual about the Cape's situation and that a successful land law could be framed six thousand miles away from Table Bay. The Colonial Office was not acquainted with the Cape's land problems, which began for the British in 1813. Otherwise, London might have concentrated on assisting the land department in improving the land administration system in the colony. However, her interests lay in another quarter. The Colonial Land and Emigration Commission members announced in 1843 that with the Cape's conformance to its principles, the "disposing of the public lands by sale . . . ought now to be considered as universally established throughout the British colonies."<sup>64</sup>

64. "General Report of the Colonial Land and Emigration Commissioners," 24 Aug. 1843, G.B., *Sessional Papers*, 1843 (621), XXIX, 48.

## CHAPTER ELEVEN. BRITISH LAND POLICY AT THE CAPE, 1795-1844

In determining the methods of distributing the waste land of its colonies, a government must make decisions which involve choices between classes in society, between economic groups, between sections of the colony or of the empire, between conflicting objectives of apparently equal merit, and indeed, between generations. The far reaching importance of these decisions is clear since they are certain to exert a fundamental influence on Colonial social and economic development.<sup>1</sup>

FROM 1795 TO 1844 AND BEYOND, LAND POLICY WAS one of the most neglected services of the British government at the Cape. Although for purposes of analysis, the British administration can be divided into a number of periods, there was an unvaried continuation in the basic attitude of those agencies of government which possessed authority over the colony's waste lands. A complacency, reinforced by a disregard for colonial conditions and by a disdain for day-to-day supervision, relegated land administration to a marginal function of Cape Town and its London master. The creation of an effective administrative office to control and direct the alienation of land was seldom considered as an object in itself. At no time, from 1795 until after 1844, can it be said that either the Cape or the Colonial Office undertook a serious examination of how any land code could be properly implemented. Too much reliance was placed upon junior servants to enforce the law, and too little attention was given to a compilation of the results of each administrative system. Too often was it suggested that the land law ought to be changed, and too often the land law was changed. In 1795 the British acquired a colony which the Dutch had neither known nor controlled; almost fifty years later London arbitrarily changed the basic land law of a colony whose land problems it did not understand. The change came before the local government, with slightly better machinery

1. Riddell, "A Study in the Land Policy of the Colonial Office, 1763-1855," p. 385.

and more enterprising officials than it had had earlier, was able to bring the chaos under some control, catch up on arrears of business, and assert some of the qualities of leadership. The Cape government showed remarkable incompetence in the execution of land policy, while the Colonial Office in its instructions showed first apathy and ignorance, and then ignorance and inappropriate rigidity that arose from its commitment to theory.

Throughout the period under review, British incapacity to implement its promises in the field of land legislation was largely because of the fact that whenever land policy was considered it was treated as a part of larger projects. Viewing the colony from the comforts of the castle in Table Bay, the British governors during the first occupation of the Cape had few reasons to become involved in the perplexities of tenures, customs, and innovations in the old Dutch land systems. Beginning with Governor Caledon in 1807, but coming to fruition under Governor Cradock in 1813, land policy was elevated to a function of the colonial executive and the colonial government. Caledon restricted the existing alienation system in order to maintain government's freedom of action in the future. Cradock used land policy as a tool to accomplish his great goal: the retention of the Cape by the British. In exchange for a secure title to his lands, the Boer was to accept and even demand the continuation of British overlordship. Cradock's convictions, based on inadequate information and circular reasoning, resulted in the first fundamental change in the colony's land code. The Cape's basically self-devised and self-operating loan-farm tenure was rejected for a more regularized tenure of perpetual quitrent. Cradock's program also resulted in Charles D'Escury's stay at the Cape as inspector of government lands and woods. From 1814 to 1827, D'Escury remained as unacquainted with the interests and realities of the colony as he did with the needs and responsibilities of an administrator.

The Colonial Office's participation in the Cradock system in the 1820's was determined by its eagerness to control slavery in the colony and to provide income for a Protestant church and school system in Albany. But London's eagerness was as fickle as was her professed interest in the affairs of the Cape. Her execution of policy went no further than the mailing of dispatches to the governors. The dispatches themselves were imprecise, contradic-



tory, and naïve; from 1813 to 1840, no more than belated and often irresponsible meddling could be expected by the Colonial Office in the land problems of its African colony.

At odds with the prevailing attitudes on land policy of governors and colonial secretaries were the recommendations of the commission of inquiry in 1828. In examining the Cape's financial and governmental structure, the commission was driven to an assessment of the Cradock code. The prevalence of squatting and of the request-place system was linked to the unfulfilled pledges of the law of 1813. The commission called for a broadening of the land laws and for the enlarging of the civil service to bring the colonists under the jurisdiction of the government. The reforms were accepted because London saw in them an increase in the revenues of the crown, and the surveyor general's office and the first Cape land board were created as vehicles to make the commission's recommendations a reality. The reformed Cradock system got under way in 1828, but the reforms became hollow and inconsequential because the land board slipped back into the philosophy which had dominated the execution of the Cradock system from 1813 to 1828. Squatting leases and a general assessment on all land were discarded in favor of a strict application of the perpetual quitrent system.

London's interest in Cape land policy was reawakened by the reports of the commission of inquiry. The stigma attached to the colony because of the failure of the 1820 Albany settlement scheme was lifted as the Colonial Office explored the possibility of extending to the Cape the land codes it had developed for Australia and Canada. The revival in concern was accompanied by a prejudice against the slaveholding Boers. At one point, some opportunities in the agrarian sector of the economy were to be limited to Englishmen and Hottentots. At the same time, the attractive philosophies of the systematic colonizers, the enviable results of the American land system, and the vision of a uniform imperial land code prompted London to prepare new edicts on the Cape's land policy. In 1831, the Ripon regulations emerged from a short but feverish reassessment of imperial and colonial land laws. The aims of London's program were not achieved because the Colonial Office had not shaken off its traditional view on how to rule the Cape. In actuality, the Ripon regulations were not enforced,

although they were published in the Cape Town *Government Gazette* in May 1832. Land was not sold at a minimum upset price; the overriding concern of the land administration was in collecting the old applications for quitrent grants. London did not discover until much later that its wishes had been ignored.

Fortune and the concern for economy resulted in the death of the first land board and the establishment of the second in December 1834. Although the surveyor general who had shown little leadership under the first board continued in office, the reconstitution of the board as a part of the surveyor general's department produced an unexpected improvement in the Cape's administrative machinery. From 1835 to 1844, the Cape acquired its first land department, operated by experienced servants who gradually removed some of the stumbling blocks in the execution of the Cradock land law. The land department gave ex post facto legality to the results of the law as administered by D'Escury and the first board, and, in this way, the department was slowly developing some control over the land tenures of the colonists. But the land law was changed again in 1843-44.

During the same period in London, additional justification for a Cape land system directed by the Colonial Office was mustered from the recommendations of the Select Committee on Waste Lands in 1836. Lord John Russell and his Colonial Land and Emigration Commission broke the lethargic habits of the Colonial Office on Cape land policy in 1840. Reclaimed from the old letter books were Glenelg's dispatches of 1838 which had called for the introduction of freehold tenure and sale of land at public auction at a fixed minimum upset price. From 1840 to 1844, the capriciousness of London's directives on land matters was transformed into a dogged steadfastness that prohibited local participation in the framing of policies. The new resoluteness was unfortunate. It appears to have been the product of the Colonial Office's acceptance of the arguments of Wakefield and his followers rather than the product of a concerted energy on the part of the London government to increase its hold on the colony. London knew and accepted the fact that the colony could not afford to sponsor an emigration system from its income from land sales. Yet the Colonial Office—or at least the Colonial Land and Emigration Commission—assumed that Wakefieldian theory had universal applica-

bility for the European colonies within the Empire. Principle overshadowed historical practice. The advice from the governor and the land department was dismissed. Land was to be sold only at auction at a minimum upset price of two shillings per acre. Freehold tenure was to replace quitrent. When at last the Colonial Office assumed responsibility for the colony's land system, its inflexibility produced new problems for the Cape.

The unsuitability of the imperial land legislation was quickly proved as soon as the colony received representative government in 1854. One of the first concerns of the two-house legislature which met in July 1854 was the colony's land law. Two select committees, meeting in September 1854 and March 1855, urged the return to the perpetual quitrent system which had been in force from 1813 to 1843. London's code was struck down for four reasons: it had not increased the revenues; it had not allowed occupiers to obtain titles for the land they held; it had not provided for the granting of land of limited worth to those who could best use it; and it had undermined the very base of the earlier land codes by expanding the use of freehold tenure.<sup>2</sup> Of particular interest was the legislature's recognition that there were those in the colony who were expecting government to act upon their old requests for titles:

Lands within the old boundary of the colony, which have been long occupied, on the plea of early application for the same to Government, proof of which has been lost, should also be granted to the original occupants, or those holding them, in reasonable extent, and subject to a moderate quitrent, on payment of back quitrent, for say, not exceeding ten years, and the expenses of inspection, survey, and title deeds.<sup>3</sup>

Although the select committees' conclusions were not without an anti-imperial bias, they were drafted with the assistance of the surveyor general and the land department. The restoration of the quitrent system, modified to the point that some land would be sold at auction in quitrent tenure at a flexible upset price based on the costs of inspection and survey, was not a hasty political act. The parliamentarians acknowledged that proper administrative machinery was necessary and that squatting had to be controlled

2. "Report from the Select Committee appointed to Inquire into the System of Selling Crown Lands," Cape of Good Hope, *Votes and Proceedings*, 1855, Appendix II, pp. ii-iv.

3. *Ibid.*, p. iv.

if a successful alienation program were to be achieved. A devolution of land department authority was suggested by the use of district land boards to control surveyors and to handle requests for land. Cape Town was to supervise the entire system, but it would no longer have the responsibility for conducting all details of the land alienation program. The colonial habit of claiming land by right of occupation was to be challenged and removed:

A law should be enacted to repress the unauthorized occupation of, or squatting upon, Crown lands, and they [the committee] would recommend that, until such a law be passed, the Government should exercise any power and authority it may possess to check the evil.<sup>4</sup>

The committees' program was incorporated into an executive decree published in October 1856.<sup>5</sup> The colonial legislature gave additional permanence to the new code in 1860 by passing a bill which also provided for the long-term leasing of land, a suggestion which had been made by the commission of inquiry. By the governor's decree and the act of 1860, quitrent tenure was restored to its former dominant place; no conversions into freehold were allowed.<sup>6</sup> The annual fixed quitrents attached to titles were based on the worth of the land. Valuation was used to dispose of small strips and of plots of specialized value. No fixed minimum upset price was attached to any land sold by public auction in quitrent.<sup>7</sup> The colonial government restored the administrative system which had been developed by the land department from 1835 to 1844. Thus, the rejection of the Ripon regulations, the Glenelg dispatches, and the Russell and Stanley directives was complete and final.

However, in the period under review the distinction between an imperial land policy and a colonial one should not be distorted. Every administrative system and proposed land code ignored some of the basic tenets in the establishment of authority over the colony's land practices. No system, not even that of the

4. *Ibid.*, pp. iv-ix.

5. Cape Town *Government Gazette*, 31 Oct. 1856.

6. When the Colonial Land and Emigration Commission received an outline of the first committee's proposal in 1854, it regretted the return to the earlier code, but maintained that since the Cape possessed its own legislative equipment, the commission would not insist that the new law be reserved by London. "Report from the Select Committee appointed to Inquire into the System of Selling Crown Lands," Appendix II, pp. ix-x.

7. *Report of the Surveyor-General on Land Tenure*, pp. 10-11.



land department from 1835 to 1844, was universally applicable or soundly effective. Each code, with the exception of the recommendations of the commissioners of inquiry in 1828, insisted that land had to be surveyed before it could be transferred. Yet neither London nor Cape Town thought it necessary to stipulate and to enforce a uniform metrical length in the measurements of the surveyors. The surveying system in the colony, which had been slightly improved in the period from 1835 to 1844, was so imprecise that a select committee of the Cape legislature reported in 1858:

The exact boundaries of landed property throughout the colony, are in many cases not ascertainable by resurvey, owing to the flagrant inaccuracy of original diagrams, the loss of beacons or landmarks, and the impossibility of identifying the latter.<sup>8</sup>

At last, in the same year, a committee was appointed by the governor to establish a standard for the use of land surveyors.<sup>9</sup> Throughout the remainder of the century, the colonists and the government had to pay for new attempts to rectify the past errors.<sup>10</sup>

The problem of inaccuracies extended beyond individual grants; no geodetic survey was made of the colonial frontiers or of base lines through the colony until after 1876. Even then the surveyor general had to argue his case.<sup>11</sup> The government at the Cape by tradition seemed to be satisfied with only a general knowledge of the colony's features and limits. An official of the government warned in 1875 that "unlike the Australian and North American colonies, there has been no regular systematic survey of this country, so that none of the published maps . . . are accurate representations of its geographical and topographical features."<sup>12</sup> London's interest in acquiring even a general knowledge of the Cape is subject to question. A critic wrote in 1847, "though it has now been a British possession for half a century,

8. "Proceedings of and Documents relative to the Committee of the Legislative Council Appointed to take into Consideration the Present State of the Law with regard to Disputed Land Beacons," Cape of Good Hope, *Votes and Proceedings*, 1858, Appendix II, p. 2.

9. *Report of the Commissioners Appointed for Determining the Unit of Land Measure within the Colony* (Cape Town: Government Printer, 1859).

10. "Land Registry," *Cape Monthly Magazine*, XVIII (Jan. 1879), 1-10.

11. *Report of the Surveyor-General on Land Tenure*, pp. 101-11.

12. John Noble, *Descriptive Handbook of the Cape Colony: Its Conditions and Resources* (Cape Town: J. C. Juta, 1875), p. 2.



The Cape of Good Hope appears to be still in England so perfectly a 'terra incognita,' a place about which people seemed to know so little, and to care so much less. . . ."<sup>13</sup> London seemed satisfied with its ignorance and slow response to South African problems. It was the former undersecretary in the Colonial Office who wrote the permanent undersecretary in 1825, "but at all events in a Cape matter a few months delay makes no material difference & I will endeavor to refresh my recollections when I return to Town."<sup>14</sup>

In each dispatch written by the Colonial Office there was an underlying wish that the colony had consisted of Cape Town alone. The concentration of governmental authority in Cape Town gave support to London's view, and throughout most of the period British settlers were also chiefly concentrated in the capital and in one interior district, Albany. Perhaps if more British emigration had taken place after 1820 and if the British had moved into the districts occupied by the Boers, government would have been made more aware of the colony's social and economic problems. As it was, there was little contact between Cape Town and the interior districts. One observer has said:

The [British] troops and the Governor, and all their belongings, lived on the peninsula, pleasantly happy among themselves. The Dutch settlers lived on the mainland, in and about their villages with Dutch names and their farmhouses with Dutch gardens. Community of feeling, community of interest, there was about as much as there is between cats and schoolboys.<sup>15</sup>

Although this remark is a gross simplification of the character of British rule at the Cape, there is a grain of truth in it.

The governor was expected to personify British rule, and yet despite the efforts of such men as Governors Caledon, D'Urban, and Napier to come to grips with their administrative responsibilities, the Cape governor seemed more inclined to accept than to question the nature of his colonial establishment. He was probably no better and no worse than his counterparts elsewhere in the Empire in this period. He tended to isolate himself within the

13. [E. H. D. E. Napier], *Past and Future Emigration; or, The Book of the Cape* (London: Thomas Cautley, 1849), p. 17.

14. Goulburn to Hay, 26 Aug. 1825, C.O. 48/63 (P.R.O.).

15. F. Reginald Statham, *South Africa: in the Past and Future* (London: Twentieth Century Press, 1900), p. 24.

administration, guarding his prestige and enjoying the status of his office. His was the role of responding to situations that were brought to his attention. A Cape writer expressed this view in sharper terms in 1869:

The Governor of the Cape Colony is always a bird of passage, and not always selected for his peculiar aptitude for the situation to which he is appointed. He generally accepts office with the crudest of notions—often with some favourite crotchet of his own; crams, before leaving England, for information out of works on the Colony, many of them obsolete; reads up in ponderous Blue-books containing correspondence of his predecessors, and then, furnished with “instructions” from Home, where the best information, political, geographical, etc., does not exist in perfection, arrives in Cape Town, dons the purple, issues a proclamation on the assumption of the new dignity, and lingers in that seductive metropolis until some thunderclap of disaster on the Border calls him to the front. Such has been the usual rôle for more than forty years.<sup>16</sup>

There was also a wish on the part of both Cape Town and London that the multiracial population of the colony would somehow disappear. It is significant to note that a strong anti-Boer prejudice arose early in British land policy and was continued by London throughout the 1820's and the 1830's. Yet the bias was unaccompanied by any concern for granting lands to the non-Europeans. Although London showed a deep fear that the Boers would enslave the non-European, the dispatches of the Colonial Office made no mention of the need to include the Cape Coloured, Hottentot, and Bantu in a government-sponsored land system. In following Wakefieldian logic in the drafting of its land codes, the Colonial Office was building an empire of white colonists. The emancipation of the slaves, the granting of civil rights to the Hottentots and the Cape Coloured, and the protection of the Bantu were projects considered outside the context of land policy. Race relations was a subject that was too often confined to discussions of frontier and missionary problems. The land officials and the governors at the Cape shared this outlook. In order to have land within the colony, the non-European had to be a squatter or a member of a mission station. The single exception—a small one—was the Kat River settlement established in 1829,

16. A. Wilmot and J. C. Chase, *History of the Colony of the Cape of Good Hope* (Cape Town: Juta, 1869), p. 369.

which provided some small farms for Hottentots along the frontier. Thus, British land policy at the Cape was considered as a regulatory service for the European.

The inefficacy of the various administrative systems from 1813 to 1844 was not due to the colonists' rejection of the land codes. The persistent backlog of applications for government grants showed that at least a certain proportion of the Boers were willing to have legal titles for what they claimed. At no time did the government face the problem of trying to convince its subjects that they should respond to its land program. On the contrary, the chief problem for government was convincing itself that the speedy disposition of claims was its responsibility. Squatting, a tenure usually considered as existing in frontier societies prior to government action, was a necessary result of the Cape's administrative dilatoriness. The colonists' experience in attempting to obtain titles for their lands would suggest that the British did much to prevent the Boers from identifying themselves with the Cape Town government.

In formulating a land policy for the Cape, the British were not facing the problems of a frontier society for the first time. However, neither London nor Cape Town applied any of the administrative techniques that had been developed or were being developed in the Empire. Information on the operation of programs in Canada, Australia, and the United States was not sent to the Cape. Even in seeking to devise an imperial land system, London paid little attention to administrative details. Although many officials in the Cape Town government had worked in other colonies where land policy was of considerable importance, there was no attempt to link Cape land problems with those existing elsewhere or to imitate methods used in other frontier societies. Yet the Cape could have benefited from such an exchange of knowledge. In particular, the Canadians and the Americans had developed machinery for processing claims below the provincial or territorial unit of government. Also, the United States had perfected an orderly and effective system of surveying land. Not once from 1813 to 1844 did the British at the Cape seriously examine their surveying methods or consider the establishment of district land offices.

One explanation for the isolation of Cape land policy from

those that were being developed elsewhere is that the Cape was placed outside of the American influence within the British Empire. The United States, through its land practices and through its appeal to the British emigrant, had a profound effect on the framing of imperial and colonial land policies throughout the nineteenth century. Edward Gibbon Wakefield entitled one of his works *England and America*. He and the select committee of 1836 wanted to copy some of the features of the American land program. The whole idea of systematic colonization was in part a reaction to American influence on the Empire. One purpose for the creation of the Colonial Land and Emigration Commission was to meet the challenge of the United States by offering an attractive program of emigration within the British Empire. Canada, Australia, and New Zealand were within the American orbit; their frontiers competed with America's frontier. Americans in the colonies also were instrumental in the creation of land alienation systems. For example, the Melbourne Chamber of Commerce, dominated by American merchants, offered the first land program for Victoria after it received responsible government. The chamber urged the adoption of the "New England form of settlement";<sup>17</sup> other Americans and American land practices continued to influence the framing of Australian land laws throughout the 1850's and 1860's.

The Cape escaped this influence. The colony was not considered the equivalent of a Canada or an Australia. The fiasco of the Albany settlement scheme in 1820 seemed to have left a lasting impression in the minds of Downing Street officials that the Cape was not suited for British settlers. Contrary to London's viewpoint, the colony was not devoid of economic opportunities. Land was available within the existing borders of the colony, but because of the disorder within the land administration, neither London nor Cape Town knew its extent. It was estimated in 1848, before the extension of the colony's boundaries, that little more than one-half of the colony had been granted in legal title.<sup>18</sup> Although much of the remainder was useless ground or was claimed by other colonists, there were farms still available. Also,

17. *Special Committee Report on Promoting Agriculture and Selling of Waste Lands in the Colony* (Melbourne: Chamber of Commerce, 1855).

18. Cape of Good Hope Blue Book for 1848, C.O. 5990 (Cape).



after the Great Trek, improved property was easy to obtain from private sources. Later in the century, in one ten-year period from 1866 to 1875, more than 20,000,000 acres of new land were leased or granted in quitrent, and some of this land was in the older sections of the colony.<sup>19</sup> English settlers could have found a place in the colony in the 1820's and the 1830's. Few arrived, however; from 1821 to the early 1840's, an average of 219 landed in the colony each year.<sup>20</sup> In 1845, less than five hundred of the 93,501 colonists who left the United Kingdom in that year selected the Cape for their new home.<sup>21</sup> The colony's economic potential was lightly dismissed by London and Cape Town. Again and again one sees that the Cape's relationship to the crown rested upon its function as a refreshment station on the waterway to India. It was a quiet possession; only its most dramatic problems attracted listeners in London.

Another factor which fostered administrative complacency was that the colonists seldom voiced objections to British policies. The tardy development of a press and of representative institutions limited the expression of colonial opinion. The government's confinement to Cape Town, the colony's small but dispersed European population, and the colony's vast size also made it difficult for contact to be made between the governed and the governing. This meant that colonial problems in the Cape could be more easily overlooked than in Canada or Australia. There was no real need for the British to feel that they had to pacify the Boers. Cradock's grand design to remake the Boer into an Anglo-Saxon was abandoned when he left the colony. Some attempts were made to introduce English institutions in the 1820's, but these were limited in scope. It appears that there was little impetus to change either the nature of the colony or its government. Administrative problems arising from an expanding, multiracial society were treated as phenomena of the frontier zone. It was therefore easy for the British administration in Cape Town to cling to an established set of values and to operate on the basis of habit. For

19. *Report of the Surveyor-General on Land Tenure*, pp. 30-31, 40-41, 85.

20. E. Hengherr, "Emancipation and After: A Study of Cape Slavery and the Issues Arising From It, 1830-1843" (unpublished Master's dissertation, University of Cape Town, 1953), p. 98.

21. "Ninth General Report of the Colonial Land and Emigration Commissioners," June 1849, G.B., *Sessional Papers*, 1849 (1082), XXII, 35.



example, there was no reason after the official transfer of the Cape to the British in 1814 for the colony to continue the quitrent system. Cradock's code of 1813 was a "wartime" measure. Yet while other major colonies of European settlement were instituting unrestricted forms of freehold, the Cape stayed with quitrent, and the tenure was considered the only one suitable for the colony. Conceivably, squatting leases, as proposed by the commissioners of inquiry, would have eliminated many of the government's problems in the granting of land. But there was a distinct lack of imagination and a strong dislike for change in the ideas and actions of the colonial administration.

Because of the peculiar nature of British land policy at the Cape, it is difficult to ask those questions which occur when one examines frontier land systems. In looking at the Canadian, Australian, and American experience, one can adopt a standard frame of reference and ask such questions as "who got the land?"; then one can proceed to evaluate the role of the speculator, grazier, and farmer. Also, one can trace the extension of government and see a correlation between land policy and land settlement. At the Cape such questions are irrelevant. It is apparent that land policy went unrecognized as a power of government. When examining the Cape, land policies and land practices must be considered two separate subjects.

The study of British land policy from 1795 to 1844 raises questions about the nature of the imperial relationship existing between London and Cape Town. The amateur way in which London framed and implemented her intentions has been discussed above, but here it is worth noting that the Colonial Office did not possess a consistent superiority over the Cape government. That colonial governors could completely disregard London's directives implies that the Empire was not held together by any basic philosophy or power structure. The very inconsistency within Colonial Office policies suggests that London could exert a largely negative influence on her colonial governments. Who, then, possessed actual authority in the implementation of British policy? This question is one of the most important that the historian can ask. If both governor and colonial secretary ignored or misunderstood the problems involved in administering services to the colonists, the key personnel might be a Charles D'Escury or the members of

the first land board. The result, then, would be a total abrogation of authority. British land policy at the Cape bears out this generalization; from at least 1813 to 1844, the lesser civil servants in Cape Town were responsible for conducting land policy. Their shortcomings were distended to an imperial default.



## ANNOTATED BIBLIOGRAPHY





## I. PRIMARY SOURCES

### A. ARCHIVAL MATERIAL

#### 1. GREAT BRITAIN

##### *Public Record Office, London*

Since the Colonial Office did not classify any of its documents under the heading of "land policy" until after 1840, it was impossible to rely upon any of the catalogues or indexes to the Office's correspondence. Pertinent dispatches were listed under "Cape government," "Cape finances," "frontier," or "commissioners of enquiry." A good many were also filed under "miscellaneous." Therefore, it was necessary to look at each dispatch sent and received from 1795 to 1844.

However, in order to include the Cape's participation in the formulation of policy, I found it desirable to examine the same dispatches in the Cape Town Archives. Since the marginal comments and the directives written on the documents were often more significant than the contents of the dispatches, I have used the abbreviations "P.R.O." and "Cape" after my citations to indicate the location of the dispatch. Wherever possible, I have used the copies of dispatches housed in the Public Record Office. The following volumes of correspondence were used:

##### C.O. 48/1 to C.O. 48/226

Included in this series are the dispatches received from the colonial governors from 1807 to the end of 1844. The volumes also include private letters from the governors, especially during the early years of British rule. Although the papers are arranged in chronological order, certain court cases and reports have been taken out of context and bound in separate volumes within the general C.O. 48 series.

##### C.O. 49/1 to C.O. 49/38

Correspondence in the C.O. 49 series includes précis of letters to the secretary of state from 1795 to 1807, letters from and to the commissioners of inquiry, and dispatches sent to the Cape and to individuals from 1795 to 1846.

##### C.O. 414/1 to C.O. 414/15

The journals, proceedings, and minutes of evidence of the commissioners of inquiry are bound in the C.O. 414 series. If one is assured that he wants nothing more than the actual

reports of the commissioners, he would find it easier to use the printed versions in Theal's *Records* or in G.B., *Sessional Papers*.

W.O. 1/323 to W.O. 1/339

Although this series is a part of the War Office's correspondence, the letters from the civil governors during the first British occupation are included in the collection.

*British Museum, London*

The Sir Hudson Lowe papers, Add. Mss. 20,116 to 20,228, were read in an attempt to gain more insight into the policies of Governor Somerset. Lowe, governor of St. Helena, was a close friend of the Somerset family, but the letters between the two governors, dating from 1815 to 1821, are of little use for the student of South Africa. However, the Lowe papers supplement the Somerset collection at Rhodes House and at the Archives in Cape Town.

*Rhodes House, Oxford*

The library of Rhodes House has a good collection of personal papers from some of the Cape governors. The following were particularly helpful:

Macartney Papers: Rh. H. Mss. Afr. t. 2 through 5.

The letter books of the governor, from 8 May 1797 to 20 May 1798, are found in this series, but the governor's dispatches are also available in the W.O. series in the Public Record Office and in Theal's *Records*.

Somerset Papers: Rh. H. Mss. Afr. s. 24.

This small collection of Somerset's writings consists of his letters to the commissioners of inquiry from 1823 to 1826. The letters show the governor's attempt to make a good impression on the commission.

Bourke Papers: Rh. H. Mss. Afr. t. 7, 32 volumes.

An important and virtually complete collection of Bourke's papers from 1825 to the end of 1828. His letters to and from friends and family are placed in chronological order with his official dispatches to London. Volume XXXII contains a summary.

*London Missionary Society, Livingstone House, London*

The letter folders, annual reports, and early publications of the L.M.S. missionaries provide a wealth of material on South Africa from 1799. However, for my purposes, the missionaries' writings provided little help in tracing the administration of land policy in the colony. Yet the archives of the L.M.S. would be an excellent place to begin a study on the competition for land among the Boer, Bantu, and missionary. It appears that many of the missions had no clear title to their lands and their claims were dependent

upon the whims of the governors. The missionaries had their own problems in conducting a land policy on the stations; plots were assigned on the basis of "good behavior," but the holder had no permanent rights to the land.

## 2. SOUTH AFRICA

### *Cape Archives, Cape Town*

In reclassifying its extensive collection of official and semiofficial documents, the National Archives has followed the practices of the Public Record Office, London. However, since it is using some of the classifications of London, the historian may become somewhat confused in dealing with the C.O. series in London and a C.O. series in Cape Town. In my footnotes I have used the term "Cape" after all documents which were obtained from the Archives. Although each agency of government has its own individual series, many of the series are in a disorderly state. For example, the land department papers are almost impossible to use. Therefore, it is easier and more rewarding to consult the colonial office series, which includes all letters received from the branches of government as well as all replies sent to the various agencies. The C.O. series is well organized and is in good condition. The following volumes of correspondence were used:

#### C.O. 1 to C.O. 563

Included in this series are all letters received and sent by the Cape colonial office. The papers are classified by year and by government office. Volumes consulted covered the years 1806 to 1846 and were listed under the following titles: "commandant of frontier," "council," "inspector of lands and woods," "land board," "land revenue," "private individuals," "registrar of deeds," "sundry committees," "surveyor general," "surveyor of lands," and "sworn surveyors."

#### C.O. 5963 to C.O. 5988

In this series are found the Cape of Good Hope Blue Books, prepared from 1821 to 1846. Some are the original manuscripts, which were often edited before their transmission to London. For example, the book for 1828 contained figures on land alienation, but this information was omitted from later copies. Also, by using this series instead of the one in the Public Record Office (C.O. 53/59 to C.O. 53/83), one can test the accuracy of translations made from the papers submitted to the Cape colonial office. It was not until the end of the 1830's that the books achieved a degree of uniformity. From the haphazard methods used in compiling the books,

it appears that the Cape government considered the books to be of little value.

G.H. 1/16 to G.H. 1/32

The dispatches received from London are bound together with drafts of replies and records of action taken in the "Government House" series in order to distinguish them from the Cape colonial office's records. Since many of the dispatches dealing with land policy in the 1830's and the 1840's were sent on to the surveyor general and land board for their comments, the originals contain some valuable asides and cryptic comments in their margins.

G.H. 5/1 to G.H. 5/2

The circulars dispatched by London from 1824 to 1855 are bound in these two volumes.

G.H. 19/1

The papers of the commissioners of inquiry on land policy are in this volume, but since the correspondence is not complete and consists largely of copies of letters and reports found in the C.O. series, this volume was of little use.

G.H. 23/9 to G.H. 23/15

This series contains drafts and final copies of the dispatches sent to London from 1828 to 1846.

G.H. 28/12 to G.H. 28/21

Bound separately are the enclosures to the dispatches sent to London from 1828 to 1846. The G.H. 1, G.H. 23, and G.H. 28 series give a full account of the Cape's reactions to the directives of London. They were especially important in gauging official response to the imperial land policies in the 1840's.

I.L.W. 24 to I.L.W. 25b

The letterbooks and charts of Charles D'Escury are found in this series. Because the inspector of lands and woods did not keep proper records, his papers are difficult to follow. I found it much easier to use the D'Escury papers bound in the C.O. series.

L.B. 1, 2, 95, 96, 97, 99, and 101

Included in these volumes are the minutes, letters, and reports of the commissioners of the land board from 1828 to 1871. The board's secretary, W. A. de Smidt, made no attempt to keep an orderly account of the board's actions. Many of the entries in the register of grants were made in pencil and were not dated. Other papers are in poor condition. Once again I found it much easier to analyze the board's actions from the papers found in the C.O. series.

T. 189 to T. 194

In these volumes of the treasury series are found the annual

general statements of colonial revenue and expenditure from 1814 to 1843.

T. 222

This single volume contains the annual reports of the receiver of land revenue from 1812 to 1858. Each year the receiver prepared a list of those colonists who were behind in their land rents. However, his reports are of limited value because in most years he provided no more than the name of the delinquent and the amount of arrears.

*South African Public Library, Cape Town*

Although both the Archives and the Public Record Office contain copies of the Cape Town *Government Gazette*, the South African Public Library has a complete run of the *Gazette*, beginning with the first editions in 1800, and its copies are in excellent reading condition. Also the library has G. M. Theal's typewritten copies of the D'Urban papers. The library has one of the largest collections of nineteenth-century Africana, including many of the pamphlets and small books which were printed in the colony and had limited circulation.

*Library of Parliament House, Cape Town*

The collection of pamphlets, periodicals, and books in this library complements that which is in the Public Library.

## B. PUBLISHED MATERIAL

### 1. GOVERNMENT PUBLICATIONS

#### a. *Great Britain*

"Report from the Select Committee on the Disposal of Lands in the British Colonies: Together with Minutes of Evidence and Appendix." 1 Aug. 1836. Great Britain, *Sessional Papers*, 1836 (512), XI.

The recommendations of the committee gave added weight to the convictions of the systematic colonizers. Edward Gibbon Wakefield was the chief witness. In order to appreciate fully the arguments of the witnesses and the report of the committee, one should read Wakefield's *Letter from Sydney and England and America*. Very little attention was given to the Cape by the committee or by Wakefield.

The following reports, listed in chronological order, were prepared by the Colonial Land and Emigration Commission and presented to



the House of Commons. The statistics compiled by the commission were obtained from the Cape of Good Hope Blue Books and are therefore subject to some question since the latter were often inaccurate.

"Return Showing the Total Quantity of Crown Land, or of Land subject to the Disposal of the Crown . . . which has been sold in each of the Colonies of Great Britain during Each Year since the 1st day of January 1831." 31 July 1840. Great Britain, *Sessional Papers*, 1840 (510), XXXIII.

"A Return Showing the Total Quantity of Crown Land which has been sold in each of the Colonies of Great Britain during the years 1839, 1840, and 1841 so far as can be supplied." 4 May 1842. Great Britain, *Sessional Papers*, 1842 (231), XXXI.

"General Report of the Colonial Land and Emigration Commissioners." 2 April 1844. Great Britain, *Sessional Papers*, 1844 (178), XXXI.

"Fifth General Report of the Colonial Land and Emigration Commissioners." Great Britain, *Sessional Papers*, 1845 (617), XXVII.

"Seventh General Report of the Colonial Land and Emigration Commissioners." June 1847. Great Britain, *Sessional Papers*, 1847 (809), XXXIII.

"Statement for each of the years 1837 to 1846, inclusive, of the Amount of the Land Revenue of the Colonies; the lowest Price at which Land has been sold; the Expenditure on Emigration, and Amounts charged on the Land Revenue for other objects than Emigration." Great Britain, *Sessional Papers*, 1847/1848 (345), XLVII.

"Eighth General Report of the Colonial Land and Emigration Commissioners." June 1848. Great Britain, *Sessional Papers*, 1847/1848 (961), XXVI.

"Ninth General Report of the Colonial Land and Emigration Commissioners." June 1849. Great Britain, *Sessional Papers*, 1849 (1082), XXII.

"Twelfth General Report of the Colonial Land and Emigration Commissioners." July 1852. Great Britain, *Sessional Papers*, 1852 (1499), XVIII.

"Seventeenth General Report of the Emigration Commissioners." Great Britain, *Sessional Papers*, 1857, Series 2 (2249), XVI.

### b. Cape Colony

Cape Town *Government Gazette*. August 1800 to December 1845.

Until the appearance of private presses in the late 1820's, the *Government Gazette* contained advertisements of goods and property for sale. The social and economic historian can obtain much pertinent material on the Cape from the early volumes. The *Gazette*, published in Dutch and in English, was sent to the major district officials and was to be put on display for the benefit of the

district's inhabitants. It appears that the most common practice was for the landdrost to nail the paper on his office door or on the door of the district church.

The following items consist of reports published by the Cape's colonial legislature, which first met in July 1854. The publications are listed in chronological order.

"Report from the Select Committee on the Defence of the Eastern Frontier; Together with the Proceedings of the Committee and Minutes of Evidence." Cape of Good Hope, *Select Committee Reports*, 1854.

A brief re-examination of the colony's frontier policies is included in this report. As was so often the case, Bantu-Boer aggression was not treated as a contest over the same grazing land.

"Report from the Select Committee on Granting Lands in Freehold to Hottentots [residing at Missionary Institutions]." Cape of Good Hope, *Select Committee Reports*, 1854.

Although the committee claimed that it wanted to provide greater security for the Hottentot who held land on the mission stations, the members had a strong anti-missionary bias, and one can conclude that at least some of the members were interested in weakening the missionaries' hold over the Hottentots.

"Report from the Select Committee appointed to Inquire into the System of Selling Crown Lands." Cape of Good Hope, *Votes and Proceedings*, 1855, Appendix II.

This report contains the recommendations of two committees which worked with the land department in assessing the operation of the imperial land code from 1844 to 1854. In addition to recommending that the colony should return to the perpetual quitrent system of 1835-44, the committee recognized the need to expand the land administration system and to deal with squatting in the colony. The members did not give any attention to the land claims of the non-Europeans.

"Proceedings of and Documents relative to the Committee of the Legislative Council Appointed to take into Consideration the Present State of the Law with regard to Disputed Land Beacons." Cape of Good Hope, *Votes and Proceedings*, 1858, Appendix II.

The inability to determine ownership of land, due to inaccurate surveys, vague diagrams, and missing titles and land beacons, became an increasing handicap to both government and individuals by the 1850's. A select committee was appointed to devise corrective legislation, and in their review of Cape practices they strongly condemned the chaotic surveying system and the government's procrastination in issuing titles.

"Report of the Commissioners appointed for the purpose of Deter-

mining the Unit of Land Measure within the Colony." Cape Town: Government Printer, 1859.

In response to the recommendations of the select committee on disputed land beacons (see above), the governor appointed a special committee to examine the operation of the Cape's surveying system. The committee found that the colony possessed no single standard of land measurement. To solve the problem for the future, the committee recommended that the government adopt the Cape "foot," a variation of the Rhyneland "foot," as its base unit. It was only after the adoption of this standard unit that the Cape's surveys achieved a degree of uniformity. The committee's report provides an excellent account on the Cape's surveying system from 1652 to 1858.

"Report of the Select Committee on Crown Lands." Cape of Good Hope, *Votes and Proceedings*, 1864, Appendix II.

This committee was appointed to consider the effects of the land law of 1860 and the governor's proclamation of 1856, both of which had provided for the reintroduction of the perpetual quitrent system of 1835-44. The committee recommended the expansion of leasehold tenure as a cheap and efficient mode of land alienation. The lessee was to be allowed to convert his lease into quitrent upon payment of the usual fees for survey and inspection. In this respect, the committee urged the adoption of the recommendations of the commissioners of inquiry.

*Report of the Surveyor-General on Tenure of the Land, Land Laws, and their Results.* Cape Town: Government Printer, 1876.

In 1876 the surveyor general was asked to prepare a general report on the operation of all land laws and on the functions of his department. In doing so, the surveyor general reviewed the various land systems enforced since the days of Dutch administration. His report was one of the most important documents used in the preparation of this study. The surveyor general urged the colony to sponsor a geodetic survey of the colony so that all surveys could be made more accurate. Such base surveys had been done in all other British colonies of settlement prior to this time.

## 2. OFFICIAL AND SEMIOFFICIAL PAPERS

Atkinson, C. T., ed. "Letters of Colonel John Graham from South Africa, 1805-1820," *Supplementary Report on the Manuscripts of Robert Graham, Esquire, of Fintry*. Publication 81 in the *Historical Manuscripts Commission* series. London: His Majesty's Stationery Office, 1942.

Colonel John Graham, commander of the frontier during the expulsion of the Xosa from the colony in 1811, wanted to give

loan farms to those Boers who would return to the Great Fish River area. However, Governor Cradock, convinced that the colony needed a more secure tenure, nullified Graham's program. Letters in this volume were written by Graham to his father and show the son's eagerness to advance in his profession. The letters also give information about the frontier and its isolation from Cape Town.

Barnard, Lady Anne. *South Africa a Century Ago: Letters Written from the Cape of Good Hope (1797-1801)*. London: Smith, Elder, 1901.

Lady Anne Barnard, official hostess during Governor Macartney's stay, wrote a series of letters to Henry Dundas in which she described English life in Cape Town. The letters, which reveal little about the colony, tend to confirm the thesis that the British were isolated from the colonists.

Barrow, Sir John. *An Auto-Biographical Memoir of Sir John Barrow, Bart., late of the Admiralty; including Reflections, Observations, and Reminiscences at Home and Abroad, from Early Life to Advanced Age*. London: John Murray, 1847.

———. *Travels into the Interior of Southern Africa*. 2nd ed., 2 vols. London: T. Cadell & W. Davies, 1806.

Throughout his time, Barrow was considered an authority on the Cape. In 1797, as Macartney's private secretary, he undertook an exploration of the Cape's eastern districts. His report, later published as his *Travels*, was accepted as an accurate and definitive study of Cape society and was used by the Colonial Office in its preparation of instructions to the governors. Barrow's observations were influenced by a strong anti-Boer prejudice and by his "uncomfortableness" in frontier society. He maintained throughout his life that the only solution for Cape problems was the introduction of British settlers.

Bell, Kenneth N., and Morrell, W. P., eds. *Select Documents on British Colonial Policy, 1830-1860*. Oxford: Clarendon Press, 1928.

Since any classification of Colonial Office documents may imply that London was consistent in its approach to imperial problems, this collection should be used with caution. The authors have included "land policy" under the broad title of "colonization."

Blommaert, W., and Wiid, J. A., eds. *Die Joernal van Dirk Gysbert van Reenan, 1803*. Trans. J. L. M. Franken and Ian M. Murray. Cape Town: Van Riebeeck Society, 1937.

Van Reenan, a wealthy and prominent Boer, accompanied Governor J. W. Janssens on his tour of the interior in 1803. The journal describes conditions in the eastern part of the colony and gives some of Janssens and De Mist's plans for improving agriculture and commerce.

Borchers, Petrus Borchardus. *An Auto-Biographical Memoir*. Facsim-



ile reprint of 1861 ed. Cape Town: Africana Connoisseur Press, 1963.

Clark, C. M. H., ed. *Select Documents in Australian History*. 2 vols. Sydney: Angus & Robertson, 1950, 1955.

The author's annotations and classification of official and semi-official papers elevates this collection above similar attempts to abstract the significant from colonial correspondence. His section on imperial land policy is followed by one showing the life of the Australian squatters.

Cole, Maud Lowry, and Stephen Gwynn, eds. *Memoirs of Sir Lowry Cole*. London: Macmillan, 1934.

Letters in this volume reveal little about the governor's thoughts or actions while he was in charge of the Cape.

Donkin, Sir Rufane. *A Letter on the Government of the Cape of Good Hope, and on certain Events which have occurred there of late Years, under the Administration of Lord Charles Somerset; addressed most respectfully to Earl Bathurst*. London: Carpenter & Son, 1827.

Donkin, who joined the opposition against the Liverpool ministry, arranged for Charles D'Escury to send him copies of government correspondence. As a result D'Escury lost his job, and Donkin, who had been acting governor of the Cape, was denied further promotions. This pamphlet condemns Somerset's autocratic and malicious nature. It is interesting to note that the work was also published in Dutch in 1827. (See *South African Bound Pamphlets*, XCVIII, South African Public Library, Cape Town.)

[D'Urban, Sir Benjamin]. *Public Documents Showing the Character of Sir Benjamin D'Urban's Administration of the Government of the Colony of the Cape of Good Hope, especially with regard to the Kaffir Tribes beyond Its Frontier, from the beginning of 1834 to the beginning of 1838*. Cape Town: Government Gazette Office, 1838.

When D'Urban was recalled, he proceeded to collect evidence showing that his annexation of Bantu territory to the east was justified and that he had the support of the colonists. He was planning to open the territory (Queen Adelaide Province) to white settlers and sent the surveyor general to the frontier. D'Urban's personal copy of this publication, in which he made further comments and corrected errors, is in the South African Public Library, Cape Town.

Eybers, G. W. *Select Constitutional Documents Illustrating South African History, 1795-1910*. London: George Routledge & Sons, 1918.

This volume has limited use.

Hutton, C. W., ed. *The Autobiography of the Late Sir Andries Stockenström, Bart.* 2 vols. Photo reprint of 1887 ed. Cape Town: C. Struik, 1964.



Stockenstrom, who held a number of administrative positions in the eastern sector of the colony, provides an excellent insight into the operation of the Cape Town government during the period under review. His account of Somerset's policies is particularly useful.

Moodie, Donald, ed. *The Record: or a Series of Official Papers relative to the Condition and Treatment of the Native Tribes of South Africa*. Photo reprint of 1838 and 1841 eds. Cape Town: A. A. Balkema, 1960.

Moodie, protector of slaves for the eastern division of the colony, was hired by D'Urban to translate Dutch records on the expansion of the colonists and their treatment of the non-European. In this collection, one sees how the government lagged behind the colonists and how the colonists established loan farms on their own initiative.

Naudé, S. D., ed. *Kaapse Plakkaatboek*. 5 vols. Cape Town: Government Printer, 1940-50.

This series contains the official publications of the Dutch and British prior to the establishment of the *Government Gazette*.

Taylor, Ernest, comp. *The Taylor Papers; being a record of Certain Reminiscences, Letters, and Journals in the Life of Lieut.-General Sir Herbert Taylor*. London: Longmans, Green, 1913.

In 1827, Taylor, who was military secretary to the Duke of York, was considered for the governorship of the Cape. Letters in this volume are from his close friends, Sir Richard Bourke and Lady Catherine Bell, wife of the Cape's colonial secretary and sister-in-law of Sir Lowry Cole. The correspondence points out Bourke's disappointment in not being named permanent governor of the Cape.

Theal, George McCall, ed. *Belangrijke Historische Dokumenten over Zuid-Afrika Verzameld in Den Haag en Berlijn*. 3 vols. Cape Town: Government Printer, 1896-1911.

This collection of documents supplements the Dutch and Batavian papers in the South African Archives. Included are the records of the Council of the XVII and De Mist's plans for re-making the Cape.

———. *Documents Relating to the Kaffir War of 1835*. London: William Cowes & Sons, for the Government of the Union of South Africa, 1912.

When the D'Urban papers were given to the Cape Town Archives in 1912, Theal was asked to collect those which related to D'Urban's handling of the frontier war of 1834-36. Although many of the documents in this volume are available in the Public Record Office, some of the governor's private correspondence is included. A more interesting collection of the D'Urban papers is available in typewritten form in the South African Public Library. See Theal, "Documents bearing upon the Emigration of the

Dutch Farmers from the Eastern Districts of the Cape Colony." Although neither collection formed an important source in the preparation of this study, anyone attempting to deal with competition for land between the European and non-European would find the D'Urban papers to be of prime importance.

———. *Records of the Cape Colony*. 36 vols. Cape Town: Government Printer, 1897–1905.

This is the most valuable printed collection of official documents on South Africa, but one must be cautious in his use of Theal. The papers, covering the years 1795 to 1828, were copied from the originals in the Public Record Office, but the editor arranged the material according to date alone and failed to include the dispatch numbers; thus, one has difficulty in following the flow of correspondence between London and Cape Town. Enclosures have been separated from their covering letters, and the index is inaccurate and incomplete. Theal also failed to provide information on the source and classification of each document; thus, it is quite difficult to trace the original or to ascertain if he included all related papers. However, the printed documents are faithful copies of the originals. Since the originals of the reports of the commissioners of inquiry are in poor reading condition, I found Theal's printed editions to be invaluable. Also, he includes some correspondence by Charles D'Escury which I was not able to find in the Public Record Office or Cape Town Archives.

Thom, A. B., ed. *Willem Stephanus van Ryneveld: Se Aanmerkingen over de Verbetering van het Vee aan de Kaap de Goede Hoop, 1804*. Trans. J. L. M. Franken and Ian M. Murray. Cape Town: Van Riebeeck Society, 1942.

Van Ryneveld was the most influential colonial in the early years of British rule. In particular, he served as the interpreter of conditions during Caledon's governorship. In 1804 he proposed to the Batavian officials that an agricultural society be established to improve Cape livestock, develop markets, and introduce new farming methods. His report is an excellent commentary on the Boers' self-sufficiency and isolation from a market economy.

### 3. CONTEMPORARY PUBLICATIONS AND PRIVATE PAPERS

Boyce, William B. *Notes on South African Affairs from 1834 to 1838; with reference to the Civil, Political, and Religious Condition, of the Colonists and Aborigines*. Graham's Town: Aldum & Harvey, 1838.

This is but one of the many publications arising from the fight between the London Missionary Society and Wesleyan Missionary Society over the missionaries' participation in the war of 1834–36.

Although almost all of the missionaries deplored the colony's expansion to the east and north, they showed a noticeable lack of concern over the granting of land to non-Europeans within and beyond the colony. A number of works by missionaries were read in preparation of this study in order to see if the missionaries were aware of the government's tardiness in granting titles to the Boers and the general insecurity which prevailed in the land alienation system. Aside from remarks concerning their own land policies on the mission stations, the missionaries did not see a relationship between land policy and government or between land policy and colonial expansion. Boyce's work emphasizes the government's vacillating "frontier policy" and the Boer-Bantu cattle raids as the causes of the war.

Justus [Beverley, Robert Mackenzie]. *The Wrongs of the Caffre Nation*. London: James Duncan, 1837.

Beverley was a spokesman for the London Missionary Society in its squabble with the Wesleyans. See comments under Boyce above.

Keppel-Jones, Arthur, ed. *Philipps, 1820 Settler: His Letters*. Pietermaritzburg: Shuter & Shooter, 1960.

Philipps was one of the original Albany settlers, and his correspondence to his family indicates the precariousness of the whole scheme. The letters also illuminate the nature of the Somerset administration: its neglect of the British families, its inability to issue land titles, and its fear of a vocal opposition.

Mills, R. C., ed. *A Letter from Sydney and Other Writings by Edward Gibbon Wakefield*. London: E. P. Dutton, 1929.

Although this is an excellent compilation of Wakefield's major writings, the volume does not include Wakefield's testimony before the select committee of 1836.

Philip, Dr. John. *Researches in South Africa*. 2 vols. London: Duncan, 1828.

This work, by the director of the London Missionary Society's missions in South Africa, influenced Colonial Office opinion throughout the 1830's. The work was far from being objective or detached; Philip had little use for the Boer, and while he championed the rights of the Hottentot, Cape Coloured, and Bantu, he glossed over many of their economic needs.

Pringle, Thomas. *African Sketches*. London: Edward Moxon, 1834.

Affiliated with Dr. Philip and the L.M.S., Pringle added to the opinion in Britain that the Boers were not civilized and were deliberately rejecting British authority. Pringle made his points in short essays and sonnets.

Shaw, William. *A Letter to the Right Hon. The Earl of Aberdeen, K.C.B., one of His Majesty's Principal Secretaries of State, etc., on the Subject of the Late Irruption of the Caffres into the British*

*Settlement of Albany, South Africa.* London: John Mason, 1835.

Shaw, leader of the Wesleyans, defended the policies of Governor D'Urban in fighting the Bantu and attacked the attitude of the L.M.S. missionaries. Shaw's work is another illustration of the tendency to assume that competition for land was not a part of the frontier struggle. See comments under Boyce above.

#### 4. ATLAS, HANDBOOKS, AND GUIDES TO THE CAPE COLONY

Banker, Thomas, Blake, Edward W., and Cook, Alexander. *A New Royal Authentic and Complete System of Universal Geography Antient and Modern.* 2 vols. London: J. Cooke, 1787.

This work, which has excellent maps of North and South America, shows the limited knowledge that the British possessed about the geography of southern Africa. All territory east and north of Cape Town was labeled "Hottentot Country."

[Bannister, Saxe]. *Records of British Colonies and Enterprise Beyond Sea from Original and Authentic Sources.* London: George Cox, 1852.

For his report on the Cape, Bannister relied heavily upon Barrow's *Travels*, a work published almost fifty years before.

Bird, W. Wilberforce. *State of the Cape of Good Hope in 1822.* London: John Murray, 1823.

Bird, a comptroller of customs at the Cape, attempted to provide a brief guide to the colony for the use of intending settlers. His work seems accurate, and many of his statements were later repeated in the Cape of Good Hope Blue Books.

Chase, John Centlivres. *The Cape of Good Hope and the Eastern Province of Algoa Bay, with Statistics of the Colony.* London: Pelham Richardson, 1843.

Godlonton, Robert. *Sketches of the Eastern Districts of the Cape of Good Hope, as they are in 1842, compiled by the Editor of the 'Graham's Town Journal.'* Grahams Town: Graham's Town Journal Office, 1842.

The two publications, one by Chase and the other by Godlonton, may be considered as one study since both men worked together to compile information on the advantages of emigrating to the eastern division of the Cape. Both stressed the large amount of unclaimed land that was available to settlers and the low price of property. They emphasized the production of wool as one way in which the Cape could develop a more extensive market economy.

Griffin, James. *The Real Facts Disclosed, or the only Real Guide to the Cape.* 2nd ed. London: Duncombe, 1819.

Griffin relied upon newspaper accounts for his information, and



it appears that he had not been to the Cape. Evidently, his publication was in response to the sudden interest in the Cape that arose when parliament appropriated £50,000 for the Albany scheme.

*Itinerary of the Colony of the Cape of Good Hope Showing the Distances in Hours between the Principal Towns, Villages, etc., According to the different Modes of Travelling in Use.* Cape Town: A. S. Robertson, 1835.

This is a handy and interesting handbook which illustrates the primitive communication system of the Cape in the 1830's. Users of the guide were asked to remember that all distances were calculated on the basis of beginning each journey at a fast gallop. Watering places and pasture ground were also listed.

Matthew, Patrick. *Emigration Fields: North America, The Cape, Australia, and New Zealand, Describing These Countries, and Giving a Comparative View of the Advantages They Present to British Settlers.* London: Longman, Orme, Brown, Green, & Longmans, 1839.

Because of the frontier wars and the failure of the 1820 settlement scheme, Matthew saw little advantage in emigrating to the Cape. His material on the colony was quite dated; he used Barrow and Philip as his chief authorities on the Cape's conditions.

[Napier, E. H. D. E.]. *Past and Future Emigration; or, The Book of the Cape.* London: Thomas Cautley, 1849.

Napier, who was an army officer on the frontier, urged his countrymen to reassess the colony as a place for emigration. He stressed the economic opportunities available for the production of wool, the raising of livestock, and the growing of grains. In his introduction he complained about the lack of current and accurate information on the Cape.

Noble, John. *Descriptive Handbook of the Cape Colony: Its Conditions and Resources.* Cape Town: J. C. Juta, 1875.

Noble, clerk to parliament, began the publication of an annual report on the Cape, giving a brief history, statistics on economic activities, and comments on the land system and other functions of government. In this first report, Noble complained about the colony's imprecise surveying system and the resulting inaccuracy of all published maps on southern Africa.

Parlby, Samuel. *Hints to Emigrants, in which the Climate, Capabilities, and Geographical Position of the British Colony of the Cape of Good Hope are submitted for Examination and Consideration.* London: Pelham Richardson, 1838.

Philipps, Thomas. *Advantages of Emigration to Algoa Bay and Albany, South Africa.* 2nd ed. London: Effingham Wilson, 1836.

The small books by Parlby and Philipps were intended to remove the impression that the Cape could not support British



emigrants and that all of its land was claimed. The accounts do not give any precise statistics.

Ross, George, comp. *The African Court Calendar for MDCCCVIII*. William Hiddingh Reprint Series No. 6. Cape Town: University of Cape Town Library, 1954. (First published in 1808: Cape Town, Government Printer.)

Smith, H. H., comp. *African Court Calendar for 1801*. William Hiddingh Reprint Series No. 15. Cape Town: University of Cape Town Library, 1959. (First published in 1801: Cape Town, Government Printer.)

The court calendars, both of which list all members of the government, were useful to this study in determining the number of Englishmen in the colonial government. It appears that only the chief official in each branch of government in Cape Town was English; the court system and district governments were monopolized by Dutch-speaking colonials. English influence also was curtailed by the heavy use of pluralism.

Van de Sandt, B. J., comp. *Companion to the Cape of Good Hope Almanac and Annual Register, containing Statistical Sketches of the Several Districts of the Colony*. Cape Town: B. J. Van de Sandt de Villiers, 1847.

This is an excellent, almost encyclopedic survey of the colony in the 1840's. The large size of the country districts, the primitiveness of the transportation system, and the sparsity of the population are demonstrated by figures given by the author.

## II. SECONDARY SOURCES

Any investigation of a particular subject within South Africa and the Empire of the nineteenth century owes much to the contributions of others. The following, almost all of which are readily available, were of special importance.

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